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FEDERAL PROPERTY AND  
ADMINISTRATIVE SERVICES  
ACT OF 1949 . . .

*With Analysis and Index*

GENERAL SERVICES ADMINISTRATION

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## FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

### SHORT TITLE

That this Act may be cited as the "Federal Property and Administrative Services Act of 1949".

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DECLARATION OF POLICY

SEC. 2. It is the intent of the Congress in enacting this legislation to provide for the Government an economical and efficient system for (a) the procurement and supply of personal property and nonpersonal services, including related functions such as contracting, inspection, storage, issue, specifications, property identification and classification, transportation and traffic management, management of public utility services, repairing and converting, establishment of inventory levels, establishment of forms and procedures, and representation before Federal and State regulatory bodies; (b) the utilization of available property; (c) the disposal of surplus property; and (d) records management.

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SECTION-BY-SECTION ANALYSIS<sup>1</sup>

The bill commences with a short title styled the "Federal Property and Administrative Services Act of 1949," following which is a table of contents.

*Section 2. Declaration of policy*

This is very brief and states the intent of the Congress to provide for the Government an economic and efficient system for (a) the procurement and supply of personal property and nonpersonal services and performance of related functions; (b) the utilization of available property; (c) the disposal of surplus property; and (d) records management. Other sections of the bill implement items (a), (b), and (c) by consolidating the present scattered property functions and by providing a new uniform charter for property management. Item (d) is implemented only by the transfer of the National Archives Establishment to the General Services Administration. Additional legislation will be necessary to establish an effective system of records management. Such a system, however, should be built around the National Archives Establishment, and should be administered in the General Services Administration, so that this transfer is a logical first step toward its creation.

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<sup>1</sup> This analysis is composed of a consolidation of the Section by Section Analyses appearing in S. R. No. 475, and H. R. No. 670 and H. R. No. 935, all of the Eighty-first Congress, together with interpretations of the Act which have been approved by the General Counsel, General Services Administration.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "executive agency" means any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

(b) The term "Federal agency" means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate and the House of Representatives).

(c) The term "Administrator" means the Administrator of General Services provided for in title I hereof.

(d) The term "property" means any interest in property of any kind except (1) the public domain and lands reserved or dedicated for national forest or national park purposes; and (2) naval vessels of the following categories: Battleships, cruisers, aircraft carriers, destroyers, and submarines.

(e) The term "excess property" means any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof.

(f) The term "foreign excess property" means any excess property located outside the continental United States, Hawaii, Alaska, Puerto Rico, and the Virgin Islands.

(g) The term "surplus property" means any excess property not required for the needs and the discharge of the responsibilities of all Federal agencies, as determined by the Administrator.

(h) The term "care and handling" includes completing, repairing, converting, rehabilitating, operating, preserving, protecting, insuring, packing, storing, handling, conserving, and transporting excess and surplus property, and, in the case of property which is dangerous to public health or safety, destroying or rendering innocuous such property.

(i) The term "person" includes any corporation, partnership, firm, association, trust, estate, or other entity.

(j) The term "nonpersonal services" means such contractual services, other than personal and professional services, as the Administrator shall designate.

(k) The term "contractor inventory" means (1) any property acquired by and in the possession of a contractor or subcontractor under a contract pursuant to the terms of which title is vested in the Government, and in excess of the amounts needed to complete full performance under the entire contract; and (2) any property which the Government is obligated to take over under any type of contract as a result either of any changes in the specifications or plans thereunder or of the termination of such contract (or subcontract thereunder), prior to completion of the work, for the convenience or at the option of the Government.

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ANALYSIS

*Section 3. Definitions*

Several definitions require special note. "Property" includes all interests in property except the public domain and the major classes of naval vessels. "Excess property" means any property under the control of any Federal agency not required for its needs and responsibilities as determined by the head thereof.

"Surplus property" means any property which has been declared excess by a particular Federal agency and which, after a survey of the needs of other Federal agencies, is determined by the Administrator of General Services no longer to be required by the Federal Government as a whole. The definition of "Federal agency" in section 3 (b) excludes the Senate and the House of Representatives from the definition. Both Houses of Congress are among the bodies for which the Administrator is to provide procurement and related services, only upon request, as set out under section 201 (b); thus the autonomy of the Congress is preserved, except insofar as it shall, upon its request, desire to be included in the procurement and related services.

## TITLE I—ORGANIZATION

### GENERAL SERVICES ADMINISTRATION

SEC. 101. (a) There is hereby established an agency in the executive branch of the Government which shall be known as the General Services Administration.

(b) There shall be at the head of the General Services Administration an Administrator of General Services who shall be appointed by the President by and with the advice and consent of the Senate, and perform his functions subject to the direction and control of the President.

(c) There shall be in the General Services Administration a Deputy Administrator of General Services who shall be appointed by the Administrator of General Services. The Deputy Administrator shall perform such functions as the Administrator shall designate and shall be Acting Administrator of General Services during the absence or disability of the Administrator and, unless the President shall designate another officer of the Government, in the event of a vacancy in the office of Administrator.

(d) Pending the first appointment of the Administrator under the provisions of this section, his functions shall be performed temporarily by such officer of the Government in office upon or immediately prior to the taking of effect of the provisions of this Act as the President shall designate, and such officer while so serving shall receive the salary fixed for the Administrator.

(e) Pending the effective date of other provisions of law fixing the rates of compensation of the Administrator, the Deputy Administrator and of the heads and assistant heads of the principal organizational units of the General Services Administration, and taking into consideration provisions of law governing the compensation of officers having comparable responsibilities and duties, the President shall fix for each of them a rate of compensation which he shall deem to be commensurate with the responsibilities and duties of the respective offices involved.

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## ANALYSIS

### DESIGNATION OF NAME

The new agency shall be known as the "General Services Administration." It is desired that the term "Administration" come to be applied only to independent agencies, that do not have Cabinet status, as in the case of the departments, and that are not primarily regulatory bodies as is the case with commissions. This change is effected in harmony with the recognition of the long over-due realignment of elements within the generic governmental term "agency." It is the beginning of proper, and more fittingly descriptive nomenclature, in governmental fields.

#### *Section 101. General Services Administration*

(a) *Establishment of General Services Administration.*—This subsection provides for the establishment in the executive branch of the Government of a new agency to be known as the General Services Administration.

(b) *Administrator of General Services.*—This subsection provides that the new agency shall be headed by a new officer of the Government, entitled "Adminis-

trator of General Services," to be appointed by the President by and with the advice and consent of the Senate.

(c) *Deputy Administrator.*—This subsection provides for a Deputy Administrator to be appointed by the Administrator. The Deputy Administrator will perform such functions as the Administrator may designate and be Acting Administrator during the absence or disability of the Administrator and (unless the President designates another officer to serve as Administrator) in the event of a vacancy in that office.

(d) *Performance of functions pending first appointment.*—This subsection provides that, pending the first appointment of an Administrator, his functions shall be performed, temporarily, by such officer as the President shall designate. In case the incumbent of an abolished office is designated, he will be entitled to receive compensation during the period of his temporary service.

(e) *Compensation of Administrator, Deputy Administrator, heads and assistant heads of the principal organizational units.*—This section authorizes the President to establish the rate of compensation for the Administrator, Deputy Administrator, the heads and assistant heads of the principal organizational units, at such rates as he shall deem to be commensurate with their duties and responsibilities.

## TRANSFER OF AFFAIRS OF BUREAU OF FEDERAL SUPPLY

SEC. 102. (a) The functions of (1) the Bureau of Federal Supply in the Department of the Treasury, (2) the Director of the Bureau of Federal Supply, (3) the personnel of such Bureau, and (4) the Secretary of the Treasury, relating to the Bureau of Federal Supply, are hereby transferred to the Administrator. The records, property, personnel, obligations, and commitments of the Bureau of Federal Supply, together with such additional records, property, and personnel of the Department of the Treasury as the Director of the Bureau of the Budget shall determine to relate primarily to functions transferred by this section or vested in the Administrator by titles II, III, and V, of this Act, are hereby transferred to the General Services Administration. The Bureau of Federal Supply and the office of Director of the Bureau of Federal Supply are hereby abolished.

(b) The functions of the Director of Contract Settlement and of the Office of Contract Settlement, transferred to the Secretary of the Treasury by Reorganization Plan Numbered 1 of 1947, are transferred to the Administrator and shall be performed by him or, subject to his direction and control, by such officers and agencies of the General Services Administration as he may designate. The Contract Settlement Act Advisory Board created by section 5 of the Contract Settlement Act of 1944 (58 Stat. 649) and the Appeal Board established under section 13 (d) of that Act are transferred from the Department of the Treasury to the General Services Administration, but the functions of these Boards shall be performed by them, respectively, under conditions and limitations prescribed by law. There shall also be transferred to the General Services Administration such records, property, personnel, obligations, commitments, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Treasury Department as the Director of the Bureau of the Budget shall determine to relate primarily to the functions transferred by the provisions of this subsection.

(c) Any other provision of this section notwithstanding, there may be retained in the Department of the Treasury any function referred to in subsection (a) of this section which the Director of the Bureau of the Budget shall, within ten days after the effective date of this Act, determine to be essential to the orderly administration of the affairs of the agencies of such Department, other than the Bureau of Federal Supply, together with such records, property, personnel, obligations, commitments, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, of said Department, as said Director shall determine.

## ANALYSIS

*Section 102. Transfer of the Bureau of Federal Supply and contract-settlement functions to the General Services Administration.*

(a) *Transfer of the Bureau of Federal Supply.*—This subsection provides for transferring to the General Services Administration the functions, records, and personnel of the Bureau of Federal Supply, now in the Department of the Treasury, and for vesting in the Administrator of General Services the functions of Treasury personnel relating to the Bureau of Federal Supply. It also provides



for abolishing the Bureau of Federal Supply, thereby permitting the Administrator of General Services to establish such organization as he deems necessary. The Bureau of Federal Supply has been in the Department of the Treasury since 1933 and exercises central procurement functions for the executive branch of the Government. Its functions are not essentially related to the primary fiscal and tax functions of the Department of the Treasury, so that the Bureau may readily be severed from that Department without impairment of the Department's efficiency. In the General Services Administration the Bureau will supplement the property-service functions of that agency and will facilitate more economical property management in the Government. The functions are transferred to the Administrator, and records, property, personnel obligations and commitments are transferred to the Administration. This framework is in accordance with the recommendations of the Commission on Organization of the Executive Branch of the Government. Functions of the Secretary of the Treasury, referred to in clause (4), include all functions vested in him by law but performed by the Bureau for him under appropriate delegation: For example, stock-piling under the Strategic and Critical Materials Stock Piling Act (60 Stat. 596) and functions of over-all supervision and review of the performance of Bureau functions incidental to his position as head of the Department.

(b) *Transfer of contract-settlement functions.*—This subsection provides for transfer to the Administrator of General Services of the functions, transferred to the Secretary of the Treasury a little over 2 years ago, of the Director of Contract Settlement and the Office of Contract Settlement created by the Contract Settlement Act of 1944 (58 Stat. 649; 41 U. S. C. 101-125). These functions relate to the establishment of uniform policies and procedures for the settlement of terminated war contracts by Government contracting agencies and, because of the almost complete liquidation of the contract-termination program, are now routine and insignificant. Such little work as has been recently required in connection with this program has been carried on in the Treasury primarily by the Bureau of Federal Supply. It would be in the interest of good management to have this Bureau continue to wind up that program. This subsection likewise transfers from the Treasury to the General Services Administration the Appeal Board and the Contract Settlement Advisory Board also created by the Contract Settlement Act of 1944. This transfer is for housekeeping purposes only. The Secretary of the Treasury does not, nor will the Administrator of General Services, review decisions of the Appeal Board which will perform its functions under conditions and limitations prescribed by law.

(c) *Functions retained in the Treasury.*—This subsection permits the Bureau of the Budget to retain in the Treasury Department certain minor functions of the Bureau of Federal Supply, for example, as to printing, which properly pertain to the Treasury Department.

TRANSFER OF AFFAIRS OF THE FEDERAL WORKS AGENCY

SEC. 103. (a) All functions of the Federal Works Agency and of all agencies thereof, together with all functions of the Federal Works Administrator, of the Commissioner of Public Buildings, and of the Commissioner of Public Roads, are hereby transferred to the Administrator of General Services. There are hereby transferred to the General Services Administration the Public Roads Administration, which shall hereafter be known as the Bureau of Public Roads, and all records, property, personnel, obligations, and commitments of the Federal Works Agency, including those of all agencies of the Federal Works Agency.

NOTE: The Public Roads Administration, together with its functions, personnel, funds and the functions of the Commissioner of Public Roads, was transferred to the Department of Commerce by Reorganization Plan No. 7 of 1949, effective Aug. 20, 1949 (14 F. R. 5228).

(b) There are hereby abolished the Federal Works Agency, the Public Buildings Administration, the office of Federal Works Administrator, the office of Commissioner of Public Buildings, and the office of Assistant Federal Works Administrator.

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ANALYSIS

*Section 103. Transfer of affairs of the Federal Works Agency*

(a) *Transfer of constituents and functions of the Federal Works Agency.*—This subsection transfers to the General Services Administration the functions, records, and personnel of (1) the Public Buildings Administration and (2) the Public Roads Administration (to be known as the Bureau of Public Roads), and all other functions, records, and personnel of (3) the Federal Works Agency. The functions of the Federal Works Administrator, the Commissioner of Public Buildings, and the Commissioner of Public Roads are transferred to the Administrator of General Services; thus conforming to the strong recommendation of the Commission on Government Organization for an integrated organization with all statutory authority and responsibility vested in the head of the organization.

(b) *Abolition of Federal Works Agency.*—This subsection abolishes the Federal Works Agency, Public Buildings Administration, Office of the Federal Works Administrator, Office of the Commissioner of Public Buildings, and the Office of the Assistant Federal Works Administrator.

## RECORDS MANAGEMENT: TRANSFER OF THE NATIONAL ARCHIVES

SEC. 104. (a) The National Archives Establishment and its functions, records, property, personnel, obligations, and commitments are hereby transferred to the General Services Administration. There are transferred to the Administrator (1) the functions of the Archivist of the United States, except that the Archivist shall continue to be a member or chairman, as the case may be, of the bodies referred to in subsection (b) of this section, and (2) the functions of the Director of the Division of the Federal Register of the National Archives Establishment. The Archivist of the United States shall hereafter be appointed by the Administrator.

(b) There are also transferred to the General Services Administration the following bodies, together with their respective functions and such funds as are derived from Federal sources: (1) The National Archives Council and the National Historical Publications Commission, established by the Act of June 19, 1934 (48 Stat. 1122), (2) the National Archives Trust Fund Board, established by the Act of July 9, 1941 (55 Stat. 581), (3) the Board of Trustees of the Franklin D. Roosevelt Library, established by the Joint Resolution of July 18, 1939 (53 Stat. 1062), and (4) the Administrative Committee established by section 6 of the Act of July 26, 1935 (49 Stat. 501), which shall hereafter be known as the Administrative Committee of the Federal Register. The authority of the Administrator under section 106 hereof shall not extend to the bodies or functions affected by this subsection.

(c) The Administrator is authorized (1) to make surveys of Government records and records management and disposal practices and obtain reports thereon from Federal agencies; (2) to promote, in cooperation with the executive agencies, improved records management practices and controls in such agencies, including the central storage or disposition of records not needed by such agencies for their current use; and (3) to report to the Congress and the Director of the Bureau of the Budget from time to time the results of such activities.

## ANALYSIS

*Section 104. Records management: Transfer of the National Archives*

(a) *Transfer of the National Archives establishment.*—This subsection transfers to the General Services Administration the functions, records, and personnel of the National Archives establishment, and to the Administrator of General Services the functions of the Archivist of the United States (except his membership in the bodies specified in subsection (b)), and of the Director of the Division of the Federal Register. The Archivist is to be appointed by the Administrator.

(b) *Transfer of National Archives Council and other bodies.*—This subsection transfers to the General Services Administration the National Archives Council, the National Historical Publications Committee, the National Archives Trust Fund Board, the Board of Trustees of the Franklin D. Roosevelt Memorial Library, and the Administrative Committee of the Federal Register, and provides that the authority of the Administrator under section 106 shall not extend to those bodies or their functions.

(c) *Surveys of Government records.*—This subsection authorizes the Administrator to make surveys of Government records, records management, disposal practices, and obtain reports on records and disposal procedures from Federal agencies. The Administrator is authorized to promote improvements in records management, storage, and disposition of records and to report to Congress and to the Director of the Bureau of the Budget the results of such activities.

TRANSFER FOR LIQUIDATION OF THE AFFAIRS OF THE WAR ASSETS  
ADMINISTRATION

SEC. 105. The functions, records, property, personnel, obligations, and commitments of the War Assets Administration are hereby transferred to the General Services Administration. The functions of the War Assets Administrator are hereby transferred to the Administrator of General Services. The War Assets Administration, the office of the War Assets Administrator, and the office of Associate War Assets Administrator are hereby abolished. Personnel now holding appointments granted under the second sentence of section 5 (b) of the Surplus Property Act of 1944, as amended, may be continued in such positions or may be appointed to similar positions for such time as the Administrator may determine.

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ANALYSIS

*Section 105. Transfer for liquidation of the affairs of the War Assets Administration*

This section provides for the liquidation of the affairs of the War Assets Administration as an agency and transfers its remaining functions, and its records, property, personnel, obligations, and commitments to the General Services Administration. It also permits the retention of certain special assistants and other experts now holding appointments without regard to the provisions of the civil-service laws and the Classification Act of 1923, as amended, and their appointment to similar positions.

The retention in employment and the status of other personnel transferred from War Assets Administration to the General Services Administration will be governed by applicable provisions of existing law.

REDISTRIBUTION OF FUNCTIONS

SEC. 106. The Administrator is hereby authorized, in his discretion, in order to provide for the effective accomplishment of the functions transferred to or vested in him by this Act, and from time to time, to regroup, transfer, and distribute any such functions within the General Services Administration. The Administrator is hereby authorized to transfer the funds necessary to accomplish said functions and report such transfers of funds to the Director of the Bureau of the Budget.

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ANALYSIS

*Section 106. Redistribution of functions*

Under this section the Administrator of General Services, in order effectively to perform the functions vested in him under the terms of this Act, is authorized to regroup and distribute within the Administration functions transferred to or vested in him by this Act, to make appropriate transfers of funds in connection therewith, and to report such transfers of funds to the Director of the Bureau of the Budget.

Such reporting is necessary in order to assure that funds are expended for the purpose for which they were appropriated, but it is not intended to give the Director of the Bureau of the Budget veto power over the Administrator so far as the organization of the Administration is concerned. The authority in this field should not be divided.

TRANSFER OF FUNDS

SEC. 107. (a) All unexpended balances of appropriations, allocations, or other funds available or to be made available, for the use of the Bureau of Federal Supply, the War Assets Administration, the Federal Works Agency, and the National Archives Establishment, and so much of the other unexpended balances of appropriations, allocations, or other funds of the Department of the Treasury, available or to be made available, as the Director of the Bureau of the Budget shall determine to relate primarily to functions transferred to or vested in the Administrator by the provisions of this Act, shall be transferred to the General Services Administration for use in connection with the functions to which such balances relate, respectively.

(b) When other functions are transferred to the General Services Administration from any Federal agency, under section 201 (a) (2) or (3), or otherwise under this Act, there shall be transferred such records, property, personnel, appropriations, allocations, and other funds of such agency to the General Services Administration as the Director of the Bureau of the Budget shall determine to relate primarily to the functions so transferred.

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ANALYSIS

*Section 107. Transfer of funds*

(a) This section transfers to the General Services Administration for activities under the bill the appropriations, allocations, or other funds available to the Department of the Treasury, the War Assets Administration, the Federal Works Agency, and the National Archives establishment for the functions transferred.

(b) *Transfer of functions of other agencies.*—This subsection provides that in the event that any other Federal agency, or any of its components, which are not specifically identified in this bill, are transferred to the General Services Administration, the functions, records, personnel, and funds of such organizations shall be transferred to the General Services Administration.

STATUS OF TRANSFERRED EMPLOYEES

SEC. 108. Subject to other provisions of this title relating to personnel, employees transferred by the provisions of this title shall be deemed to be employees of the General Services Administration and their reappointment shall not be required by reason of the enactment of this Act.

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ANALYSIS

*Section 108. Status of transferred employees*

This section provides that, subject to other provisions of this title relating to personnel, employees transferred shall be deemed to be employees of the General Services Administration so as not to require reappointment.

## GENERAL SUPPLY FUND

SEC. 109. (a) There is hereby authorized to be set aside in the Treasury a special fund which shall be known as the General Supply Fund. Such fund shall be composed of the assets of the general supply fund (including any surplus therein) created by section 3 of the Act of February 27, 1929 (45 Stat. 1342; 41 U. S. C. 7c), and transferred to the Administrator by section 102 of this Act, and such sums as may be appropriated thereto, and the fund shall assume all of the liabilities, obligations, and commitments of the general supply fund created by such Act of February 27, 1929. The capital of the General Supply Fund shall be in an amount not greater than \$75,000,000. The General Supply Fund shall be available for use by or under the direction and control of the Administrator (1) for procuring personal property (including the purchase from or through the Public Printer of standard forms and blankbook work for field warehouse issue) and nonpersonal services for the use of Federal agencies in the proper discharge of their responsibilities, and (2) for paying all elements of cost of the procurement, handling, and distribution thereof, except that on and after July 1, 1950, those elements of cost which are determined by the Administrator with the approval of the Director of the Bureau of the Budget to be indirect or overhead costs shall not be paid from the fund.

(b) Payment by requisitioning agencies shall be at prices fixed by the Administrator. Until July 1, 1950, such prices shall be fixed in accordance with law and regulations applicable on the date of enactment of this Act to prices fixed by the Director of the Bureau of Federal Supply. On and after such date, such prices shall be fixed at levels so as to recover so far as practicable all costs except those which are determined by the Administrator with the approval of the Director of the Bureau of the Budget to be indirect or overhead costs. Requisitioning agencies shall pay by advance of funds in all cases where it is determined by the Administrator that there is insufficient capital otherwise available in the General Supply Fund. Advances of funds also may be made by agreement between the requisitioning agencies and the Administrator. Where an advance of funds is not made, requisitioning agencies shall promptly reimburse the General Services Administration on vouchers prepared by the requisitioning agency on the basis of itemized invoices submitted by the Administrator and receiving reports evidencing the delivery to the requisitioning agency of such supplies or services: *Provided*, That in any case where payment shall not have been made by the requisitioning agency within forty-five days after the date of billing by the Administrator, reimbursement may be obtained by the Administrator by the issuance of transfer and counterwarrants supported by itemized invoices.

(c) The General Supply Fund shall be credited with all reimbursements, advances of funds, and refunds or recoveries relating to supplies or services procured through the fund, including the net proceeds of disposal of surplus supplies procured through the fund and receipts from carriers and others for loss of, or damage to, supplies procured through the fund; and the same are hereby reappropriated for the purposes of the fund.



(d) A special deposit account may be established as a part of the General Supply Fund with the Treasurer of the United States for use by the chief disbursing officer or any regional disbursing officer, Department of the Treasury, which may be credited with (1) funds advanced from the General Supply Fund account on the books of the Division of Bookkeeping and Warrants and (2) other funds properly for credit to the General Supply Fund without being covered into the Treasury of the United States; and such special deposit account may be charged with payments properly chargeable to the General Supply Fund.

(e) The Comptroller General of the United States shall make an annual audit of the General Supply Fund as of June 30, and there shall be covered into the United States Treasury as miscellaneous receipts any surplus found therein, all assets, liabilities, and prior losses considered, above the amounts transferred or appropriated to establish and maintain said fund, and the Comptroller General shall report to the Congress annually the results of the audit, together with such recommendations as he may have regarding the status and operations of the fund.

(f) Subject to the requirements of subsections (a) to (e), inclusive, of this section, the General Supply Fund also may be used for the procurement of supplies and nonpersonal services authorized to be acquired by mixed-ownership Government corporations, or by the municipal government of the District of Columbia, or by a requisitioning non-Federal agency when the function of a Federal agency authorized to procure for it is transferred to the General Services Administration: *Provided*, That the prices charged by the Administrator in such cases shall be fixed at levels which he estimates will be sufficient to recover, in addition to the direct costs of the procurement, handling, and distribution of such supplies and services, the indirect and overhead costs that the Administrator determines are allocable thereto.

#### ANALYSIS

##### *Section 109. General supply fund*

(a) This subsection reconstitutes the existing general supply fund for use by or under the direction of the Administrator. It establishes a ceiling on the capital of the fund and increases the present authorized capital by the amount of surplus therein at the end of the fiscal year 1949, varying for that fiscal year the rule that the surplus found in the fund as of June 30 be covered into the Treasury as miscellaneous receipts. The subsection continues the general purposes for which the fund may be used, providing specifically for its availability for procuring personal property (including the purchase from or through the Public Printer of standard forms and blankbook work for field warehouse issue) and nonpersonal services for the use of Federal agencies in the proper discharge of their responsibilities, and for paying all elements of cost of the procurement, handling, and distribution thereof except, effective July 1, 1950, those elements of cost which are determined to be indirect or overhead costs. The authorizations to use the fund to procure standard forms and blankbook work from the Public Printer and to make the fund's facilities available to all Federal agencies should contribute to the extension of the benefits of centralized procurement to all cases where such methods are more efficient and economical.

In eliminating the indirect and overhead costs from the costs which may be charged to the fund, cognizance has been taken of the recommendations of the Commission on Government Organization that the present surcharge on the price of commodities purchased centrally be eliminated and that the administrative costs of the central procurement agency be paid through direct appropriation. The provisions of this subsection are the result of an effort to find a

practical solution of the problem of the surcharge. It is intended that the general supply fund be used to pay only those elements of cost directly applicable to its procurement, handling, and distribution activities, such as the purchase price and transportation to first storage point of supplies and services; the cost of equipment and material used exclusively in the handling, repair, and distribution of supplies; breakage, shrinkage, and other inventory losses; the costs of personal services of personnel employed in contracting and processing of orders for and inspecting on receipt of, supplies purchased from the fund; and the cost of direct labor employed on the warehousing and distribution activities of the fund. Other costs, such as general supervisory, clerical and accounting costs, office and miscellaneous equipment and supplies, which are not incurred directly in connection with the procurement, handling, and distribution of supplies and services purchased from the fund will, as determined by the Administrator with the approval of the Director of the Bureau of the Budget, be budgeted and provided for by direct appropriation.

(b) This subsection provides for the fixing of prices of supplies and services sold from the General Supply Fund under the laws and regulations now applicable until July 1, 1950, and thereafter on the basis of recovering only the direct costs as outlined in connection with subsection (a) above. Reimbursement procedures are simplified by giving increased scope to the advance payment method of financing purchases from the fund, and by substantially reducing certain cumbersome and costly alternative procedures. The revised reimbursement procedures give effect, to the fullest extent practicable, to sound accrual accounting principles so that the books of the purchasing agencies will more accurately reflect the value of supplies and services actually received, and thus further the program which is under way to improve accounting throughout the Government. Prompt processing of reimbursements is essential to the successful operation of the program. To insure against undue delay, provision is made for reimbursement of the fund by transfer and counterwarrant if payment is not made by a requisitioning agency within 45 days after billing.

(c) This subsection provides that the general supply fund shall be credited with all reimbursements, advances, and refunds relating to supplies or services procured through the fund, including the net proceeds of disposal of surplus property of the fund. It substantially reenacts existing law. Since the general supply fund is a revolving fund, it is appropriate that these moneys be so credited in the interest of smoothness of its operation and to avoid its depletion.

(d) Under this subsection the most effective utilization of cash resources of the fund is provided for, by authorizing the establishment of a special deposit account into which all advances and fund receipts may be deposited, and from which payments may be made immediately. Under this simplification of the present collection and disbursement procedures applicable to the fund, cash will be available for use promptly after collection, without sacrificing any necessary controls.

(e) This subsection alters the previous requirement that all surplus in the fund, as determined in the annual audit by the Comptroller General, must be covered into the Treasury as miscellaneous receipts, by permitting losses incurred by the fund in prior years, as well as all assets and liabilities, to be considered in ascertaining the amount of such surplus. This change takes cognizance of the fact that such prior losses represent impairments of the fund capital, unless made good from earnings, and also will counteract any tendency to establish prices at too high a level. Also, there is added the requirement that the Comptroller General report to the Congress annually the results of the audit. Such reports, and his recommendations as to the status and operations of the fund, should be helpful to the Congress in its consideration of supply activities.

(f) This subsection makes the procurement facilities of the fund available to mixed-ownership Government corporations, to the municipal government of the District of Columbia, and, in certain cases, to non-Federal agencies, but requires that prices charged for supplies furnished these agencies shall be fixed at levels estimated by the Administrator to be sufficient to recover, in addition to the direct costs, the indirect costs determined by the Administrator to be allocable thereto. It is contemplated that a minimum of increased work will be entailed by the different treatment of agencies procuring under this subsection, considering the provision for cost estimates. The entire amount of reimbursements by such agencies will be deposited into the fund, subject to annual covering into miscellaneous receipts of any surplus which may remain in the fund at the close of the fiscal year. To the extent applicable, all the other features of subsection (a) to (e), inclusive, will govern procurements under this subsection.

## TITLE II—PROPERTY MANAGEMENT

### PROCUREMENT, WAREHOUSING, AND RELATED ACTIVITIES

SEC. 201. (a) The Administrator shall, in respect of executive agencies, and to the extent that he determines that so doing is advantageous to the Government in terms of economy, efficiency, or service, and with due regard to the program activities of the agencies concerned—

(1) prescribe policies and methods of procurement and supply of personal property and nonpersonal services, including related functions such as contracting, inspection, storage, issue, property identification and classification, transportation and traffic management, management of public utility services, and repairing and converting; and

(2) operate, and, after consultation with the executive agencies affected, consolidate, take over, or arrange for the operation by any executive agency of warehouses, supply centers, repair shops, fuel yards, and other similar facilities; and

(3) procure and supply personal property and nonpersonal services for the use of executive agencies in the proper discharge of their responsibilities, and perform functions related to procurement and supply such as those mentioned above in subparagraph (1): *Provided*, That contracts for public utility services may be made for periods not exceeding ten years; and

(4) with respect to transportation and other public utility services for the use of executive agencies, represent such agencies in negotiations with carriers and other public utilities and in proceedings involving carriers or other public utilities before Federal and State regulatory bodies;

*Provided*, That the Secretary of Defense may from time to time, and unless the President shall otherwise direct, exempt the National Military Establishment<sup>1</sup> from action taken or which may be taken by the Administrator under clauses (1), (2), (3), and (4) above whenever he determines such exemption to be in the best interests of national security.

(b) The Administrator shall as far as practicable provide any of the services specified in subsection (a) of this section to any other Federal agency, mixed ownership corporation (as defined in the Government Corporation Control Act), or the District of Columbia, or the Senate, or the House of Representatives, upon its request.

(c) In acquiring personal property, any executive agency, under regulations to be prescribed by the Administrator, may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in such cases in whole or in part payment for the property acquired: *Provided*, That any transaction carried out under the authority of this subsection shall be evidenced in writing.

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## ANALYSIS

### TITLE II. PROPERTY MANAGEMENT

This title deals with the subject of property management within the United States.

<sup>1</sup> Designation changed to Department of Defense by Pub. Law 216, 81st Cong., approved Aug. 10, 1949.

*Section 201. Procurement, warehousing and related activities*

(a) *Centralized control.*—This subsection authorizes the Administrator of General Services, where it is advantageous to the Government, to regulate the policies and methods of executive agencies with respect to the procurement and supply of personal property and nonpersonal services, including related functions such as contracting, inspection, storage, issue, property identification and classification, transportation and traffic management, management of public-utility services, and repairing and converting. The Administrator may himself procure such personal property and nonpersonal services and perform such related functions, may consolidate and operate or arrange for the operation of suitable warehouses, repair shops, and similar facilities, and may for the use of executive agencies represent such agencies in negotiations with carriers and other public utilities, and in proceedings before regulatory bodies involving carriers and other public utilities. The provisions with respect to traffic management, management of public-utility services, and representation are not intended to abrogate any authority of the Department of Justice with respect to legal proceedings, are in accordance with the recommendations of the Commission on Organization of the Executive Branch of the Government and provide clear authority on this subject.

The Administrator is authorized to negotiate contracts for public-utility services, for agencies and departments, where it is deemed advantageous to the Government, for periods in excess of 1 year but not exceeding 10 years. The purpose of this provision is to permit the Government to take advantage of discounts which may be obtained only under contracts for periods of longer than 1 year, particularly under contracts for electric-power requirements.

This authority over procurement matters vested in the Administrator is a restatement of authority concurrently exercised by the Bureau of Federal Supply, except that the control over the purchases of wholly owned Government corporations is new, and that the relationship with the Department of Defense is somewhat changed. The Secretary of Defense is authorized, unless the President shall otherwise direct, to exclude procurement for the Department of Defense from control of the Administrator where the Secretary deems exclusion in the best interest of national security. Combat equipment and other items of peculiar importance to the armed forces could thus readily be excluded by the Secretary of Defense. At the same time, the Administrator would be in a better position to serve the armed forces more fully in meeting their other supply requirements, and he can appeal to the President if he thinks the Secretary of Defense has wrongly excluded him from any field. By opinion dated August 3, 1949, the Counsel to the Committee for Development of Areas of Understanding, between the Department of Defense and General Services Administration held that the power of exemption vested in the Secretary of Defense by the proviso to Section 201 (a) is not applicable to protection and maintenance of real property pending its disposal, which is governed by Sec. 203, and accordingly, as to such property in the possession of the Department of Defense, the Administrator may confer duties upon the Department of Defense with respect thereto regardless of whether the Department of Defense consents.

(b) *Services to the legislative and judicial branches, and mixed-ownership corporations.*—This subsection provides that the Administrator shall, as far as practicable, upon the request of any agency in the legislative or judicial branches of the Government, or of any mixed-ownership Government corporation, or of the District of Columbia, purchase, warehouse, and distribute personal property and nonpersonal services to meet their needs. Government economy will be furthered by allowing these organizations, supported in whole or in part by the Federal Government, to take advantage of savings in procuring supplies which the Administrator can provide through the operation of a central procurement system.

It is believed that, with the exceptions provided in the Act, the system of centralized procurement, strengthened by the statutory support which the Act provides, will prove its efficiency and economy in the years to come. This does not mean that every item must be procured by a central agency, but only that such an agency must be responsible for determining how every item shall be procured, and for prescribing the manner of procurement which is best under the circumstances.

(c) *Application of trade-in allowances.*—This subsection authorizes executive agencies to exchange or sell personal property and apply the trade-in allowance

or proceeds of sale in whole or part payment for property acquired. This is an expansion of authority given under a number of existing statutes to specific agencies or with respect to specific types of property. While these statutes are repealed by section 502 (a) (8) to (28), the language here is intended to be sufficiently broad to preserve all such existing authority. For example, the Department of Agriculture may continue, subject, of course, to any regulations of the Administrator, to exchange publications without monetary appraisal or detailed listing as it has done in the past under that portion of the act of March 4, 1915 (5 U. S. C. 548), which is repealed by section 502 (a) (14). A proviso in the Senate bill requiring that items of personal property to be exchanged under this subsection must be subject to exchange as a general practice in normal trade channels was eliminated.

PROPERTY UTILIZATION

SEC. 202. (a) In order to minimize expenditures for property, the Administrator shall prescribe policies and methods to promote the maximum utilization of excess property by executive agencies, and he shall provide for the transfer of excess property among Federal agencies.

(b) Each executive agency shall (1) maintain adequate inventory controls and accountability systems for the property under its control, (2) continuously survey property under its control to determine which is excess property, and promptly report such property to the Administrator, (3) perform the care and handling of such excess property, and (4) transfer or dispose of such property as promptly as possible in accordance with authority delegated and regulations prescribed by the Administrator.

(c) Each executive agency shall, as far as practicable, (1) make reassignments of property among activities within the agency when such property is determined to be no longer required for the purposes of the appropriation from which it was purchased, (2) transfer excess property under its control to other Federal agencies, and (3) obtain excess property from other Federal agencies.

(d) Under existing provisions of law and procedures defined by the Secretary of Defense, and without regard to the requirements of this section except subsection (f), excess property of one of the departments of the National Military Establishment may be transferred to another department thereof.

(e) Transfers of excess property between Federal agencies (except transfers for redistribution to other Federal agencies or for disposal as surplus property) shall be at the fair value thereof, as determined by, or pursuant to regulations of, the Administrator, unless such transfer is otherwise authorized by any law approved subsequent to June 21, 1944, to be without reimbursement or transfer of funds.

(f) The Director of the Bureau of the Budget shall prescribe regulations providing for the reporting to said Director by executive agencies of such reassignments or transfers of property between activities financed by different appropriations as he shall deem appropriate, and the reassignments and transfers so reported shall be reported to the Congress in the annual budget or otherwise as said Director may determine.

(g) Whenever the Administrator determines that the temporary assignment or reassignment of any space in excess real property to any Federal agency for office, storage, or related facilities would be more advantageous than the permanent transfer of such property, he may make such assignment or reassignment for such period of time as he shall determine and obtain, in the absence of appropriation available to him therefor, appropriate reimbursement from the using agency for the expense of maintaining such space.

(h) The Administrator may authorize the abandonment, destruction, or donation to public bodies of property which has no commercial value or of which the estimated cost of continued care and handling would exceed the estimated proceeds from its sale.

## ANALYSIS

### *Section 202. Property utilization*

This section deals with the most important phase of property management, which is continuing use by the Government of the Government's property.

(a) *Over-all direction of Administrator of General Services.*—This subsection fixes upon the Administrator of General Services the over-all responsibility to prescribe the policies and methods to promote the greatest use in the entire executive establishment of property which is excess to the needs of one particular establishment and also to provide for the transfer of such property among Federal agencies.

(b) *Responsibility of executive agencies to survey property.*—This subsection imposes upon each executive agency the responsibility, in the first instance, (1) to maintain adequate inventory controls and accountability systems for its property (see also sec. 205 (b)), (2) to survey its property continuously to determine which is excess to its needs and promptly report excess property to the Administrator, (3) to care for such excess property, and (4) transfer or dispose of such property in accordance with authority delegated and regulations prescribed by the Administrator.

(c) *Responsibility of executive agencies to use property.*—This subsection similarly imposes upon each executive agency the responsibility in the first instance, to reassign property among activities within such agency, to transfer its excess property to other agencies, and to obtain for its use property which is excess to the needs of other agencies.

(d) *Transfer of property within Department of Defense.*—This subsection permits the free transfer of excess property among the departments of the Department of Defense under existing provisions of law and procedures defined by the Secretary of Defense.

(e) *Terms for transfer of excess property.*—This subsection generally requires that transfers of excess property between Federal agencies shall be at the fair value thereof as determined by the Administrator of General Services. Exceptions are made in the case of a transfer for general distribution among Federal agencies or for disposal as surplus property or where such transfer without reimbursement is otherwise authorized by recent legislations. "Transfers for redistribution to other Federal agencies" refers to instances where property is turned over to the Bureau of Federal Supply for redistribution rather than transferred direct for the use of another agency. When the redistribution occurs the transfer should be at fair value.

(f) *Transfer of property within an agency.*—Under this subsection transfers of property among activities financed by different appropriations to the same agency must be reported to the Director of the Bureau of the Budget, and, in turn, reported to the Congress.

(g) *Assignment of office and warehouse space.*—This subsection clarifies and strengthens existing law by authorizing the Administrator of General Services to assign and reassign space in excess real property to any Federal agency for office, storage, or related facilities. He may obtain reimbursement for such assignment in the absence of an appropriation available to him therefor. It is expected that operations under this subsection can and should materially lessen the present leasing of space for Government use in private office buildings.

(h) *Abandonment or donation of property.*—This subsection authorizes the abandonment, destruction, or donation to public bodies of property having no commercial value, or of which the estimated cost of continued care and handling would exceed the estimated proceeds from its sale.

DISPOSAL OF SURPLUS PROPERTY

SEC. 203. (a) Except as otherwise provided in this section, the Administrator shall have supervision and direction over the disposition of surplus property. Such property shall be disposed of to such extent, at such time, in such areas, by such agencies, at such terms and conditions, and in such manner, as may be prescribed in or pursuant to this Act.

(b) The care and handling of surplus property, pending its disposition, and the disposal of surplus property, may be performed by the General Services Administration or, when so determined by the Administrator, by the executive agency in possession thereof or by any other executive agency consenting thereto.

(c) Any executive agency designated or authorized by the Administrator to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Administrator deems proper, and it may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this title.

(d) A deed, bill of sale, lease, or other instrument executed by or on behalf of any executive agency purporting to transfer title or any other interest in surplus property under this title shall be conclusive evidence of compliance with the provisions of this title insofar as concerns title or other interest of any bona fide grantee or transferee for value and without notice of lack of such compliance.

(e) Unless the Administrator shall determine that disposal by advertising will in a given case better protect the public interest, surplus property disposals may be made without regard to any provision of existing law for advertising until 12 o'clock noon, eastern standard time, December 31, 1950.

(f) Subject to regulations of the Administrator, any executive agency may authorize any contractor with such agency or subcontractor thereunder to retain or dispose of any contractor inventory.

(g) The Administrator, in formulating policies with respect to the disposal of surplus agricultural commodities, surplus foods processed from agricultural commodities, and surplus cotton or woolen goods, shall consult with the Secretary of Agriculture. Such policies shall be so formulated as to prevent surplus agricultural commodities, or surplus food processed from agricultural commodities, from being dumped on the market in a disorderly manner and disrupting the market prices for agricultural commodities.

(h) Whenever the Secretary of Agriculture determines such action to be required to assist him in carrying out his responsibilities with respect to price support or stabilization, the Administrator shall transfer without charge to the Department of Agriculture any surplus agricultural commodities, foods, or cotton or woolen goods to be disposed of. Receipts resulting from disposal by the Department of Agriculture under this subsection shall be deposited pursuant to any authority available to the Secretary of Agriculture, except that net proceeds of any sale of surplus property so transferred shall be credited pur-



suant to section 204 (b), when applicable. Surplus farm commodities so transferred shall not be sold, other than for export, in quantities in excess of, or at prices less than, those applicable with respect to sales of such commodities by the Commodity Credit Corporation.

(i) The United States Maritime Commission shall dispose of surplus vessels of one thousand five hundred gross tons or more which the Commission determines to be merchant vessels or capable of conversion to merchant use, and such vessels shall be disposed of only in accordance with the provisions of the Merchant Marine Act, 1936, as amended, and other laws authorizing the sale of such vessels.

(j) (1) Under such regulations as he may prescribe, the Administrator is authorized in his discretion to donate for educational purposes in the States, Territories, and possessions without cost (except for costs of care and handling) such equipment, materials, books, or other supplies under the control of any executive agency as shall have been determined to be surplus property and which shall have been determined under paragraph 2 or paragraph 3 of this subsection to be usable and necessary for educational purposes.

(2) Determination whether such surplus property (except surplus property donated in conformity with paragraph 3 of this subsection) is usable and necessary for educational purposes shall be made by the Federal Security Administrator, who shall allocate such property on the basis of needs and utilization for transfer by the Administrator of General Services to tax-supported school systems, schools, colleges, and universities, and to other nonprofit schools, colleges, and universities which have been held exempt from taxation under section 101 (6) of the Internal Revenue Code, or to State departments of education for distribution to such tax-supported and nonprofit school systems, schools, colleges, and universities; except that in any State where another agency is designated by State law for such purpose such transfer shall be made to said agency for such distribution within the State.

(3) In the case of surplus property under the control of the National Military Establishment, the Secretary of Defense shall determine whether such property is usable and necessary for educational activities that are of special interest to the armed services, such as maritime academies or military, naval, Air Force, or Coast Guard preparatory schools. If such Secretary shall determine that such property is usable and necessary for such purposes, he shall allocate it for transfer by the Administrator to such educational activities. If he shall determine that such property is not usable and necessary for such purposes, it may be disposed of in accordance with paragraph 2 of this subsection.

(k) (1) Under such regulations as he may prescribe, the Administrator is authorized, in his discretion, to assign to the Federal Security Administrator for disposal such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Federal Security Administrator as being needed for school, classroom, or other educational use, or for use in the protection of public health, including research.

(A) Subject to the disapproval of the Administrator within thirty days after notice to him by the Federal Security Administrator of a proposed transfer of property for school, class-

room, or other educational use, the Federal Security Administrator, through such officers or employees of the Federal Security Agency as he may designate, may sell or lease such real property, including buildings, fixtures, and equipment situated thereon, for educational purposes to the States and their political subdivisions and instrumentalities, and tax-supported educational institutions, and to other nonprofit educational institutions which have been held exempt from taxation under section 101 (6) of the Internal Revenue Code.

(B) Subject to the disapproval of the Administrator within thirty days after notice to him by the Federal Security Administrator of a proposed transfer of property for public-health use, the Federal Security Administrator, through such officers or employees of the Federal Security Agency as he may designate, may sell or lease such real property for public-health purposes, including research, to the States and their political subdivisions and instrumentalities, and to tax-supported medical institutions, and to hospitals or other similar institutions not operated for profit which have been held exempt from taxation under section 101 (6) of the Internal Revenue Code.

(C) In fixing the sale or lease value of property to be disposed of under subparagraph (A) and subparagraph (B) of this paragraph, the Federal Security Administrator shall take into consideration any benefit which has accrued or may accrue to the United States from the use of such property by any such State, political subdivision, instrumentality, or institution.

(D) "States" as used in this subsection includes the District of Columbia and the Territories and possessions of the United States.

(2) Subject to the disapproval of the Administrator within thirty days after notice to him of any action to be taken under this subsection—

(A) The Federal Security Administrator, through such officers or employees of the Federal Security Agency as he may designate, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, and pursuant to this Act, to States, political subdivisions, and instrumentalities thereof, and tax-supported and other nonprofit educational institutions for school, classroom, or other educational use;

(B) the Federal Security Administrator, through such officer or employees of the Federal Security Agency as he may designate, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, and pursuant to this Act, to States, political subdivisions and instrumentalities thereof, tax-supported medical institutions, and to hospitals and other similar institutions not operated for profit, for use in the protection of public health (including research);

(C) the Secretary of the Interior, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, and pursuant to this Act, to States, political subdivisions, and instrumentalities thereof, and municipalities for use as a public park, public recreational area, or historic monument for the benefit of the public; or

(D) the Secretary of Defense, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended,

to States, political subdivisions, and tax-supported instrumentalities thereof for use in the training and maintenance of civilian components of the armed forces,  
is authorized and directed—

(i) to determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in any instrument by which such transfer was made;

(ii) to reform, correct, or amend any such instrument by the execution of a corrective, reformatory, or amendatory instrument where necessary to correct such instrument or to conform such transfer to the requirements of applicable law; and

(iii) to (I) grant releases from any of the terms, conditions, reservations, and restrictions contained in, and (II) convey, quitclaim, or release to the transferee or other eligible user any right or interest reserved to the United States by, any instrument by which such transfer was made, if he determines that the property so transferred no longer serves the purpose for which it was transferred, and that such release, conveyance, or quitclaim deed will not prevent accomplishment of the purpose for which such property was so transferred: *Provided*, That any such release, conveyance, or quitclaim deed may be granted on, or made subject to, such terms and conditions as he shall deem necessary to protect or advance the interests of the United States.

(1) The Administrator is authorized to take possession of abandoned and other unclaimed property on premises owned or leased by the Government, to determine when title thereto vested in the United States, and to utilize, transfer or otherwise dispose of such property. Former owners of such property upon proper claim filed within three years from the date of vesting of title in the United States shall be paid the proceeds realized from the disposition of such property or, if the property is used or transferred, the fair value therefor as of the time title was vested in the United States as determined by the Administrator, less in either case the costs incident to the care and handling of such property as determined by the Administrator.

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## ANALYSIS

### *Section 203. Disposal of surplus property*

(a) *Responsibility of General Services Administrator.*—This subsection provides that the General Services Administrator shall have supervision and direction over the disposition of property surplus to the needs of the entire Government.

(b) *Care and handling of surplus property.*—This subsection provides that the care and handling of surplus property pending its disposition, and the disposal of surplus property, may be performed by the General Services Administration or any executive agency designated by the Administrator. An agency other than the one in possession, however, cannot be designated to perform care and handling or disposal without its consent.

(c) *Terms of disposal.*—This subsection provides that any agency disposing of surplus property may do so by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, and may execute such documents for the transfer of the property as may be necessary.

(d) *Title of transferees.*—This subsection is designed to protect the interest of bona fide grantees or transferees. It makes instruments purporting to transfer title or other interest in surplus property under this act, which are executed by an executive agency, conclusive evidence of compliance with the provisions of the act in the absence of notice of defects.

(e) *Advertising for bids.*—This subsection provides that surplus property disposals may be made without regard to provisions of existing law for advertising, unless otherwise determined by the Administrator, until December 31, 1950. Thereafter, advertising and competitive bids will be required in disposing of such amount of surplus property as is not sold by that date.

(f) *Adjustments for contractor inventories.*—This subsection provides that contractors or subcontractors with executive agencies may be authorized to retain or dispose of their contractor inventories.

(g) *Consultation with Secretary of Agriculture.*—This subsection requires the Administrator to consult with the Secretary of Agriculture in formulating policies for the disposal of surplus agricultural commodities, surplus food processed from agricultural commodities, and surplus cotton and woolen goods, and further requires that such policies shall be formulated to prevent surplus agricultural commodities or surplus food products from being dumped on the market in such manner as to disrupt the market prices for agricultural commodities.

(h) *Disposal of agricultural commodities.*—This subsection requires the Administrator to transfer to the Department of Agriculture without charge, any surplus agricultural commodities, foods, or cotton or woolen goods, whenever the Secretary determines it necessary in carrying out his responsibilities with respect to price support or stabilization, and further requires that the receipts from disposals by the Department of Agriculture shall be deposited pursuant to authority available to the Secretary of Agriculture and the net proceeds of sales of property so transferred shall be credited pursuant to the provisions relating to proceeds in section 105 (b). It also provides that, except when sold for export, surplus farm commodities so transferred may not be sold in quantities in excess of or at prices less than those relating to such commodities when sold by the Commodity Credit Corporation.

(i) *Disposal of vessels for merchant use.*—This subsection establishes the United States Maritime Commission as the statutory disposal agency for surplus vessels of 1,500 gross tons or more, which it determines to be merchant vessels or capable of conversion to merchant use. Such vessels are to be disposed of in accordance with the Merchant Marine Act of 1936, as amended, and other laws relating to the sale of such vessels.

(j) *Donations for educational purposes.*—This subsection authorizes the Administrator of General Services, in his discretion, to donate surplus personal property usable and necessary for educational purposes as determined by the Federal Security Administrator, who shall allocate such property on the basis of needs and utilization for transfer by the Administrator of General Services, either direct or through State departments of education, to tax-supported and nonprofit school systems, schools, colleges, and universities. Provision is also made for allocation by the Secretary of Defense, for transfer by the Administrator to educational activities of special interest to the armed services, such as maritime academies or military or naval preparatory schools, of surplus property of the Department of Defense which the Secretary determines to be usable and necessary for such activities. It is expected that the Federal Security Administrator will delegate to the United States Commissioner of Education and Surgeon General of the United States, as the case may be, authority to make determinations and allocations under his general supervision, and that the Secretary of Defense will similarly delegate to an appropriate official his authority under this subsection.

By opinion of August 29, 1949, the Counsel to the General Services Administration Committee for Disposal of Surplus Property for Educational and Health Purposes, held that Sec. 203 (j) vested in the Administrator a discretionary rather than a mandatory authority to donate property for educational and health purposes.

(k) *Transfers of surplus real property for public use.*—(1) Under the Surplus Property Act of 1944, as amended, surplus real property has been transferred for public health and educational purposes subject to a public-benefit allowance to States and political subdivisions thereof and to tax-supported or nonprofit educational and medical institutions which have been held exempt from taxation under section 101 (6) of the Internal Revenue Code. This paragraph authorizes the Administrator in his discretion to assign to the Federal Security Administrator for disposal, subject to disapproval by the Administrator of General Services, to such organizations surplus real property which has been recommended by the Federal Security Administrator as being needed for public health and education.

It further provides that the Federal Security Administrator in fixing the sale or lease value of such property shall take into consideration any benefit which has accrued or may accrue to the United States from the use of such property by any eligible State, political subdivision, instrumentality, or institution.

(2) Under the Surplus Property Act of 1944, as amended, surplus property has been transferred, and under this act will continue to be transferred, to States and political subdivisions thereof, and to tax-supported or nonprofit educational and medical institutions for specified uses, subject to various conditions and reservations. This paragraph would permit the head of the interested Government agency, subject to disapproval by the General Services Administrator, to enforce compliance with such terms, conditions, or reservations; to reform, correct, or amend the instruments of transfer by which such conditions or reservations are imposed; and to grant releases (including conveyances by quitclaim deed, in the case of real estate) from such conditions, reservations, and restrictions to the original transferee or to another eligible user. Such releases are to be conditioned upon findings that the property no longer serves the purpose for which the transfer was made or that release will not prevent accomplishment of the purpose of such transfer, and upon such other conditions as may be necessary to protect or advance the interests of the United States.

(1) *Abandoned property.*—This subsection authorizes the Administrator to take possession of abandoned and other unclaimed property on Government premises, to determine when title thereto vested in the United States, and to utilize transfer or otherwise dispose of such property. Former owners of such property will have 3 years from the date of vesting of title in the United States to file claim and if such claim is found proper, are to be paid the proceeds realized from the disposition of the property, or, if the property is used or transferred, its fair value as of the time title vested in the United States as determined by the Administrator, less in either case the costs incident to the care and handling of such property as determined by the Administrator. It is contemplated that if such property is utilized or transferred its fair value will be paid by the receiving agency in line with the provisions of section 202 (e), and that such amounts and proceeds realized from dispositions will be covered into the Treasury as miscellaneous receipts pursuant to section 204 (a). Under other authority in the act appropriations may be made for payment of any claims presented by the rightful owners.

PROCEEDS FROM TRANSFER OR DISPOSITION OF PROPERTY

SEC. 204. (a) All proceeds under this title from any transfer of excess property to a Federal agency for its use, or from any sale, lease, or other disposition of surplus property, shall be covered into the Treasury as miscellaneous receipts, except as provided in subsections (b), (c), (d), and (e) of this section.

(b) Where the property transferred or disposed of was acquired by the use of funds either not appropriated from the general fund of the Treasury or appropriated therefrom but by law reimbursable from assessment, tax, or other revenue or receipts, then the net proceeds of the disposition or transfer shall be credited to the reimbursable fund or appropriation or paid to the Federal agency which determined such property to be excess: *Provided*, That the proceeds shall be credited to miscellaneous receipts in any case when the agency which determined the property to be excess shall deem it uneconomical or impractical to ascertain the amount of net proceeds. As used in this subsection, the term "net proceeds of the disposition or transfer" means the proceeds of the disposition or transfer minus all expenses incurred for care and handling and disposition or transfer.

(c) Any Federal agency disposing of surplus property under this title (1) may deposit, in a special account with the Treasurer of the United States, such amount of the proceeds of such dispositions as it deems necessary to permit appropriate refunds to purchasers when any disposition is rescinded or does not become final, or payments for breach of any warranty, and (2) may withdraw therefrom amounts so to be refunded or paid, without regard to the origin of the funds withdrawn.

(d) Where any contract entered into by an executive agency or any subcontract under such contract authorizes the proceeds of any sale of property in the custody of the contractor or subcontractor to be credited to the price or cost of the work covered by such contract or subcontract, the proceeds of any such sale shall be credited in accordance with the contract or subcontract.

(e) Any executive agency entitled to receive cash under any contract covering the lease, sale or other disposition of surplus property may in its discretion accept, in lieu of cash, any property determined by the Munitions Board to be strategic or critical material at the prevailing market price thereof at the time the cash payment or payments became or become due.

(f) Where credit has been extended in connection with any disposition of surplus property under this title or by War Assets Administration (or its predecessor agencies) under the Surplus Property Act of 1944, or where such disposition has been by lease or permit, the Administrator shall administer and manage such credit, lease, or permit, and any security therefor, and may enforce, adjust, and settle any right of the Government with respect thereto in such manner and upon such terms as he deems in the best interest of the Government.

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ANALYSIS

*Section 204. Proceeds from transfer or disposition of property*

(a) *Deposit of proceeds into miscellaneous receipts.*—This subsection requires all proceeds from the transfer of excess property to a Federal agency or from

the sale, lease, or other disposition of surplus property to be covered into the Treasury as miscellaneous receipts with the exceptions noted in subsections (b), (c), and (d).

(b) *Crediting of reimbursable funds.*—This subsection provides that in cases where the property was acquired by funds either not appropriated from the general fund of the Treasury, or appropriated therefrom and by law reimbursable from assessments, taxes, or other revenues, the net proceeds of the disposition or transfer of such property shall be credited to the reimbursable fund or appropriation or paid to the Federal agency declaring such property excess. It further provides that the proceeds shall be credited to miscellaneous receipts if the agency declaring the property excess shall deem it uneconomical or impracticable to ascertain the amount of net proceeds.

(c) *Refunds to purchasers.*—This subsection provides that Federal agencies disposing of surplus property may deposit in a special account with the Treasury whatever amounts they deem necessary to permit refunds to purchasers when any disposition is rescinded, or for breaches of warranty, and to withdraw the amounts so to be refunded or paid. Funds received from any specific contract are not earmarked in the special deposit account, but are commingled with all other receipts from sales by the Office of the Foreign Liquidation Commissioner. The language which provides for withdrawal of "amounts, so to be refunded or paid, without regard to the origin of the funds withdrawn" permits refunds to be made from any money remaining in the special deposit account whether or not the money collected under the particular contract remains in the special deposit account or has been transferred to general fund revenues as miscellaneous receipts.

(d) *Proceeds from contractors' sales.*—This subsection recognizes that the contractual provisions authorizing the proceeds of sales or property to be credited to price or cost of the work covered by the contract, are controlling and are not subject to the requirements of the act relating to covering proceeds into the Treasury as miscellaneous receipts.

(e) Subsection 204 (e) is intended to permit any executive agency to accept on a projected basis strategic or critical material, as determined by the Munitions Board, in lieu of cash, in payment of amounts due the Government for rent, interest, or principal installments under leases or sales of surplus property.

The price to be allowed in computing the value of the strategic or critical material, shall be the prevailing market price thereof at the time the cash payment or payments become or became due.

(f) *Management of credit and security.*—This subsection makes it clear that the Administrator is authorized to administer and manage any credit, lease, or permit, and security therefor, taken in connection with the disposition of surplus property, and authorizes him to enforce, or suitably adjust, or settle the rights of the Government with respect thereto, as he considers in the best interests of the Government.

POLICIES, REGULATIONS, AND DELEGATIONS

SEC. 205. (a) The President may prescribe such policies and directives, not inconsistent with the provisions of this Act, as he shall deem necessary to effectuate the provisions of this Act, which policies and directives shall govern the Administrator and executive agencies in carrying out their respective functions hereunder.

(b) The Comptroller General after considering the needs and requirements of the executive agencies shall prescribe principles and standards of accounting for property, cooperate with the Administrator and with the executive agencies in the development of property accounting systems, and approve such systems when deemed to be adequate and in conformity with prescribed principles and standards. From time to time the General Accounting Office shall examine such property accounting systems as are established by the executive agencies to determine the extent of compliance with prescribed principles and standards and approved systems, and the Comptroller General shall report to the Congress any failure to comply with such principles and standards or to adequately account for property.

(c) The Administrator shall prescribe such regulations as he deems necessary to effectuate his functions under this Act, and the head of each executive agency shall cause to be issued such orders and directives as such head deems necessary to carry out such regulations.

(d) The Administrator is authorized to delegate and to authorize successive redelegation of any authority transferred to or vested in him by this Act (except for the authority to issue regulations on matters of policy having application to executive agencies, the authority contained in section 106, and except as otherwise provided in this Act) to any official in the General Services Administration or to the head of any other Federal agency.

(e) With respect to any function transferred to or vested in the General Services Administration or the Administrator by this Act, the Administrator may (1) direct the undertaking of its performance by the General Services Administration or by any constituent organization therein which he may designate or establish; or (2) designate and authorize any executive agency to perform such function for itself; or (3) designate and authorize any other executive agency to perform such function; or (4) provide for such performance by any combination of the foregoing methods. Any designation or assignment of functions or delegation of authority to another executive agency under this section shall be made only with the consent of the executive agency concerned or upon direction of the President.

(f) When any executive agency (including the General Services Administration and constituent organizations thereof) is authorized and directed by the Administrator to carry out any function under this Act, the Administrator may, with the approval of the Director of the Bureau of the Budget, provide for the transfer of appropriate personnel, records, property, and allocated funds of the General Services Administration, or of such other executive agency as has theretofore carried out such function, to the executive agency so authorized and directed.



(g) The Administrator may establish advisory committees to advise with him with respect to any function transferred to or vested in the Administrator by this Act. The members thereof shall serve without compensation but shall be entitled to transportation and not to exceed \$25 per diem in lieu of subsistence, as authorized by section 5 of the Act of August 2, 1946 (5 U. S. C. 73b-2), for persons so serving.

(h) The Administrator shall advise and consult with interested Federal agencies with a view to obtaining their advice and assistance in carrying out the purposes of this title.

#### ANALYSIS

##### *Section 205. Policies, regulations, and delegations*

(a) *Presidential policies.*—By reason of the impact of this legislation upon all agencies in the executive establishment, this subsection authorizes the President, if he deems it advisable, to prescribe over-all policies and directives which shall govern the Administrator of General Services and executive agencies in operations under this act.

(b) *Property accounting systems.*—This subsection requires the Comptroller General, after considering the needs and requirements of executive agencies, to prescribe principles and standards of accounting for property, to cooperate with the Administrator of General Services and the executive agencies in developing property accounting systems, to approve satisfactory systems, to examine agency systems to determine the extent of compliance with principles, standards, and approved systems, and to report to the Congress cases of failure to comply therewith or adequately to account for property.

This is more flexible and vests more authority in the operating agencies than the recent Independent Offices Appropriations Acts, which prohibit the several agencies there named from installing or maintaining any property accounting system not prescribed or approved by the Comptroller General. The committee urges the greatest cooperation between the Comptroller General and other agencies in order that operating needs and costs may be fully considered. This section applies to all executive departments and agencies, with the exception, as provided in section 502 (c), of corporations and agencies subject to the Government Corporation Control Act.

(c) *Regulations of the Administrator.*—This subsection requires the Administrator to prescribe regulations for the effectuation of his functions under the act, and also requires the head of each executive agency to issue such orders and directives as are necessary to carry out such regulations.

(d) *Delegations of authority.*—Under this subsection the Administrator may redelgate his authority, excepting, however, the authority to issue policy regulations, the authority to make reorganizations within the General Services Administration, and as otherwise provided in the act (see sec. 307 (b)).

(e) *Designation of other agencies.*—So as to provide the greatest use of existing personnel and facilities within established agencies, this subsection authorizes the Administrator to designate other executive agencies to perform various procurement, utilization, or disposal functions with the proviso that any designation or assignment of functions or delegation of authority shall be made only with the consent of the agency concerned or upon direction of the President. This proviso would not apply to the authority of the Administrator to prescribe regulations and the duty of agency heads to implement them under subsection (c).

(f) *Transfer of personnel and funds.*—When any designation is made under subsection (d) the Administrator may, under this subsection, transfer funds and personnel to the affected executive agency.

(g) *Advisory committees.*—This subsection authorizes the Administrator to establish advisory committees to advise with him in carrying out his functions. Experience has demonstrated the value of such committees to Government officers where Government programs affect closely business and industry. Specific statutory authorization is necessary because of the prohibitions against unauthorized

boards and commissions in title 31, United States Code, section 673, volume 35, Statutes at Large, page 1027. Compare also title 5, United States Code, section 83, volume 37, Statutes at Large, page 124, and title 31, United States Code, section 551, volume 49, Statutes at Large, page 19. Because of the better control over the membership and activities of these committees which is possible when they are established pursuant to statute, it would be advisable to provide specifically for such committees even apart from these laws. It is expected by this committee that membership on these bodies will be drawn, as may be appropriate, from industry, labor, and the general public.

(h) *Consultation with other agencies.*—This subsection makes it mandatory for the Administrator to advise and consult with affected Federal agencies.

SURVEYS, STANDARDIZATION AND CATALOGING

SEC. 206. (a) As he may deem necessary for the effectuation of his functions under this title, and after adequate advance notice to the executive agencies affected, and with due regard to the requirements of the National Military Establishment as determined by the Secretary of Defense, the Administrator is authorized (1) to make surveys of Government property and property management practices and obtain reports thereon from executive agencies; (2) to cooperate with executive agencies in the establishment of reasonable inventory levels for property stocked by them and from time to time report any excessive stocking to the Congress and to the Director of the Bureau of the Budget; (3) to establish and maintain such uniform Federal supply catalog system as may be appropriate to identify and classify personal property under the control of Federal agencies: *Provided*, That the Administrator and the Secretary of Defense shall coordinate the cataloging activities of the General Services Administration and the National Military Establishment so as to avoid unnecessary duplication; and (4) to prescribe standardized forms and procedures, except such as the Comptroller General is authorized by law to prescribe, and standard purchase specifications.

(b) Each Federal agency shall utilize such uniform Federal supply catalog system and standard purchase specifications, except as the Administrator, taking into consideration efficiency, economy, and other interests of the Government, shall otherwise provide.

(c) The General Accounting Office shall audit all types of property accounts and transactions at such times and in such manner as determined by the Comptroller General. Such audit shall be conducted as far as practicable at the place or places where the property or records of the executive agencies are kept and shall include but not necessarily be limited to an evaluation of the effectiveness of internal controls and audits, and a general audit of the discharge of accountability for Government-owned or controlled property based upon generally accepted principles of auditing.

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ANALYSIS

*Section 206. Surveys and standardization*

(a) *Surveys, supply catalog, and contract forms.*—This subsection authorizes the Administrator to survey Government property and property management practices, to cooperate with executive agencies in the establishment of reasonable inventory levels and report excessive stocking to the Congress and the Budget Bureau, to establish and maintain a uniform Federal supply catalog system, and to prescribe standardized purchase and contract forms, procedures, and specifications. Making surveys, requiring reports concerning Government property, and establishing inventory levels, with due regard for the requirements of agencies concerned, will obviously promote better supply and property management practices, and indeed performance of these functions is indispensable if the powers under sections 201 and 202 are to be effectively exercised. The Administrator's reports on excessive stocking will enable the Appropriations Committees and Budget Bureau examiners to make suitable reductions in appropriations and estimates. By opinion of July 21, 1949, the Counsel to the General Services Administration Committee on Policies and Procedures held that the requirement that the Administrator make surveys of Government property and property management practices is not limited to personal property but includes both real and personal with the exceptions specified in the definition of the word "property" con-

tained in section 3 of the Act. The authority to standardize Government purchase and contract forms, procedures, and specifications has been in effect and in use for many years and is demanded by industry to make its relations with Government easier. It is confusing and costly, for example, to have a contract with terms, forms, and conditions for a supply item with one agency differing in meaning and effect from one for the same kind of item with another agency. The committee expects that the Administrator will receive the full cooperation of executive agencies in connection with the development and preparation of standardized forms and standard purchase specifications. Existing control over the standardization of the Government construction contract forms and leases is continued in effect by provision in section 502 (b).

A uniform Federal supply catalog system, which identifies and classifies personal property under the control of Federal agencies, is essential for a well-managed Federal supply system so that there may be a common supply language among all parties to a transaction. The catalog will ultimately mean large savings to the Government through reducing inventories of parts and supplies. Without such a catalog, identical items are carried in stock under different designations, swelling inventories to needless size. This cannot be avoided until each item is described, classified, and given a number for identification, so that duplications can be spotted at once. The disposal of surplus Government personal property will thus likewise be speeded. Provision is made for coordinating catalog activities with those of the National Military Establishment.

This subsection makes it clear that the Department of Defense and the Bureau of Federal Supply will continue to cooperate toward the development of a Federal catalog system, as requested by the President, in accordance with the agreement (appendix A) signed by them. It is the intention of Congress that the project should be pressed to completion with all possible speed.

(b) *Catalog and specifications mandatory.*—Due to the savings resulting from common use of the uniform supply catalog system and of standard purchase specifications, this subsection requires Federal agencies to use them, when prescribed by the Administrator, except as he shall otherwise provide. Thus the use of the cataloging system is made mandatory by the Federal agencies, and not merely within the discretion of the head of any such agency or agencies.

(c) *Audit of property accounts.*—This subsection requires the General Accounting Office to audit all types of property accounts and transactions, such audit to be conducted when practicable at the site of the property or where records of the executive agencies are kept, and include but not limited to, an evaluation of the effectiveness of internal controls and audits, and a general audit of the discharge of the duty to account for property.

#### APPLICABILITY OF ANTITRUST LAWS

SEC. 207. Whenever any executive agency shall begin negotiations for the disposition to private interests of a plant or plants, or other property, which cost the Government \$1,000,000 or more, or of patents, processes, techniques, or inventions, irrespective of cost, the executive agency shall promptly notify the Attorney General of the proposed disposal and the probable terms or conditions thereof. Within a reasonable time, in no event to exceed sixty days after receiving such notification, the Attorney General shall advise the Administrator and the interested executive agency whether, insofar as he can determine, the proposed disposition would tend to create or maintain a situation inconsistent with the antitrust laws. Upon the request of the Attorney General, the Administrator or interested executive agency shall furnish or cause to be furnished such information as it may possess which the Attorney General determines to be appropriate or necessary to enable him to give the advice called for by this section or to determine whether any other disposition or proposed disposition of surplus property violates the antitrust laws. Nothing in this Act shall impair, amend, or modify the antitrust laws or limit and prevent their application to persons who buy or otherwise acquire property under the provisions of this Act. As used in this section the term "antitrust laws" includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; and sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended.

#### ANALYSIS

##### *Section 207. Applicability of antitrust laws*

This section requires any executive agency in beginning negotiations for the disposal of any plant or other property costing \$1,000,000 or more to seek advice of the Attorney General, and it shall be the duty of the Attorney General to advise the executive agency whether the proposed disposition of the property would tend to create or maintain a situation inconsistent with the antitrust laws. The executive agency must assist the Attorney General by furnishing him any requisite information it may possess essential to the Attorney General's determination. This section also provides that nothing in the act shall modify or limit the applicability of the antitrust laws to persons who acquire property under the provisions of the act.

In one respect the section is broader than a similar provision in the Surplus Property Act of 1944. It requires a determination by the Attorney General as to whether the proposed disposal would tend to create or maintain a situation inconsistent with the antitrust laws, while under existing law the determination is whether the proposed disposition will violate the antitrust laws.

EMPLOYMENT OF PERSONNEL

SEC. 208. (a) The Administrator is authorized, subject to the civil-service and classification laws, to appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of titles I, II, III, and V of this Act.

(b) To such extent as he finds necessary to carry out the provisions of titles I, II, III, and V of this Act, the Administrator is hereby authorized to procure the temporary (not in excess of one year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract or appointment, and in such cases such service shall be without regard to the civil-service and classification laws, and, except in the case of stenographic reporting services by organizations, without regard to section 3709, Revised Statutes, as amended (41 U. S. C. 5).

(c) Notwithstanding the provisions of section 1222 of the Revised Statutes (10 U. S. C. 576) or of any other provision of law, the Administrator in carrying out the functions imposed upon him by this Act is authorized to utilize in his agency the services of officials, officers, and other personnel in other executive agencies, including personnel of the armed services, with the consent of the head of the agency concerned.

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ANALYSIS

*Section 208. Employment of personnel*

(a) *Civil-service laws.*—Employment of personnel is required by this subsection to be subject to the civil-service and classification laws.

(b) *Consultants.*—As an exception to the foregoing, this subsection grants to the Administrator limited authority to procure the temporary service of experts and consultants.

(c) *Officers of other agencies.*—The principal purpose of this subsection is to authorize the Administrator to utilize commissioned officers in the armed services with the consent of the head of the agency concerned.

# CIVIL REMEDIES AND PENALTIES

SEC. 209. (a) Where any property is transferred or disposed of in accordance with this Act and any regulations prescribed hereunder, no officer or employee of the Government shall (1) be liable with respect to such transfer or disposition except for his own fraud, or (2) be accountable for the collection of any purchase price for such property which is determined to be uncollectible by the Federal agency responsible therefor.

(b) Every person who shall use or engage in, or cause to be used or engaged in, or enter into an agreement, combination, or conspiracy to use or engage in or to cause to be used or engaged in, any fraudulent trick, scheme, or device, for the purpose of securing or obtaining, or aiding to secure or obtain, for any person any payment, property, or other benefits from the United States or any Federal agency in connection with the procurement, transfer, or disposition of property hereunder—

(1) shall pay to the United States the sum of \$2,000 for each such act, and double the amount of any damage which the United States may have sustained by reason thereof, together with the cost of suit; or

(2) shall, if the United States shall so elect, pay to the United States, as liquidated damages, a sum equal to twice the consideration agreed to be given by the United States or any Federal agency to such person or by such person to the United States or any Federal agency, as the case may be; or

(3) shall, if the United States shall so elect, restore to the United States the money or property thus secured and obtained and the United States shall retain as liquidated damages any property, money, or other consideration given to the United States or any Federal agency for such money or property, as the case may be.

(c) The several district courts of the United States, the District Court of the United States for the District of Columbia, and the several district courts of the Territories and possessions of the United States, within whose jurisdictional limits the person, or persons, doing or committing such act, or any one of them, resides or shall be found, shall wheresoever such act may have been done or committed, have full power and jurisdiction to hear, try, and determine such suit, and such person or persons as are not inhabitants of or found within the district in which suit is brought may be brought in by order of the court to be served personally or by publication or in such other reasonable manner as the court may direct.

(d) The civil remedies provided in this section shall be in addition to all other criminal penalties and civil remedies provided by law.

## ANALYSIS

### Section 209. Civil remedies and penalties

(a) *Liability of Government employees.*—This subsection exempts officers and employees of the Government disposing of property under this act from liability with respect to such disposition, except for their own fraud, and from liability for the collection of any purchase price determined to be uncollectible. This provision is necessary because of the wide discretion which must be permitted

persons charged with disposition under circumstances calling for swift action, and the tremendous volume of property covered by the act.

(b) *Civil penalties for fraud.*—This subsection deals with the civil liability of persons who engage in false, fraudulent, or fictitious activities or conceal or misrepresent material facts, or act with intent to defraud the United States, or who enter into an agreement or conspiracy, or cause other persons to do any of the foregoing. The United States is given the option of selecting among three different measures of damages—

1. Any person engaged in such activities can be sued for the sum of \$2,000 for each such act, plus twice the amount of the damage sustained by the United States, plus the cost of suit.

2. The United States may recover from such person the amount of consideration paid by it to such person, or twice the amount of consideration which such person agreed to give the United States.

3. The United States may keep the property acquired by reason of the above-described fraud, plus the consideration given to it for that property.



REPORTS TO CONGRESS

SEC. 210. The Administrator shall submit a report to the Congress, in January of each year and at such other times as he may deem it desirable, regarding the administration of his functions under this Act, together with such recommendations for amendments to this Act as he may deem appropriate as the result of the administration of such functions, at which time he shall also cite the laws becoming obsolete by reason of passage or operation of the provisions of this Act.

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ANALYSIS

*Section 210. Reports to Congress*

This section requires the Administrator to submit to Congress in January of each year, and at such other times as he may deem it desirable, a report regarding the administration of his functions under the act, together with any recommendations for amendments which he may deem appropriate and a citation of laws becoming obsolete by reason of the passage or operation of the act.

### TITLE III—PROCUREMENT PROCEDURE

#### DECLARATION OF PURPOSE

SEC. 301. The purpose of this title is to facilitate the procurement of supplies and services.

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#### ANALYSIS

##### TITLE III. PROCUREMENT PROCEDURE

This title follows in structure, and is identical in language with, the Armed Services Procurement Act, with a few appropriate changes and omissions.

*Section 301. Declaration of purpose*

This section states that the purpose of title III is to facilitate the procurement of supplies and services.

APPLICATION AND PROCUREMENT METHODS

SEC. 302. (a) The provisions of this title shall be applicable to purchases and contracts for supplies or services made—

(1) by the General Services Administration for the use of such agency or otherwise; and

(2) by any other executive agency (except any agency named in section 2 (a) of the Armed Services Procurement Act of 1947), to the extent of and in conformity with authority delegated by the Administrator pursuant to the provisions of this subsection.

The Administrator may delegate to the head of any other such agency authority to make purchases and contracts for supplies or services pursuant to the provisions of this title (A) for the use of two or more executive agencies or (B) in other cases upon a determination by the Administrator that by reason of circumstances set forth in such determination such delegation is advantageous to the Government in terms of economy, efficiency, or national security. Notice of every such delegation of authority so made shall be furnished to the General Accounting Office.

(b) It is the declared policy of the Congress that a fair proportion of the total purchases and contracts for supplies and services for the Government shall be placed with small-business concerns. Whenever it is proposed to make a contract or purchase in excess of \$10,000 by negotiation and without advertising, pursuant to the authority of paragraph (7) or (8) of section 302 (c) of this title, suitable advance publicity, as determined by the agency head with due regard to the type of supplies involved and other relevant considerations, shall be given for a period of at least fifteen days, wherever practicable, as determined by the agency head.

(c) All purchases and contracts for supplies and services shall be made by advertising, as provided in section 303, except that such purchases and contracts may be negotiated by the agency head without advertising if—

(1) determined to be necessary in the public interest during the period of a national emergency declared by the President or by the Congress;

(2) the public exigency will not admit of the delay incident to advertising;

(3) the aggregate amount involved does not exceed \$1,000: *Provided*, That no agency other than the General Services Administration shall make any purchase of, or contract for, supplies or services in excess of \$500 under this paragraph except in the exercise of authority conferred by the Administrator to procure and furnish supplies and services for the use of two or more executive agencies;

(4) for personal or professional services;

(5) for any service to be rendered by any university, college, or other educational institution;

(6) the supplies or services are to be procured and used outside the limits of the United States and its possessions;

(7) for medicines or medical supplies;

(8) for supplies purchased for authorized resale;

(9) for supplies or services for which it is impracticable to secure competition;

(10) the agency head determines that the purchase or contract is for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or test: *Provided*, That beginning six months after the effective date of this title and at the end of each six-month period thereafter, there shall be furnished to the Congress a report setting forth the name of each contractor with whom a contract has been entered into pursuant to this paragraph (10) since the date of the last such report, the amount of the contract, and, with due consideration given to the national security, a description of the work required to be performed thereunder;

(11) for supplies or services as to which the agency head determines that the character, ingredients, or components thereof are such that the purchase or contract should not be publicly disclosed;

(12) for equipment which the agency head determines to be technical equipment, and as to which he determines that the procurement thereof without advertising is necessary in special situations or in particular localities in order to assure standardization of equipment and interchangeability of parts and that such standardization and interchangeability is necessary in the public interest;

(13) for supplies or services as to which the agency head determines that bid prices after advertising therefor are not reasonable (either as to all or as to some part of the requirements) or have not been independently arrived at in open competition: *Provided*, That no negotiated purchase or contract may be entered into under this paragraph after the rejection of all or some of the bids received unless (A) notification of the intention to negotiate and reasonable opportunity to negotiate shall have been given by the agency head to each responsible bidder and (B) the negotiated price is the lowest negotiated price offered by any responsible supplier; or

(14) otherwise authorized by law.

(d) If in the opinion of the agency head bids received after advertising evidence any violation of the antitrust laws he shall refer such bids to the Attorney General for appropriate action.

(e) This section shall not be construed to (A) authorize the erection, repair, or furnishing of any public building or public improvement, but such authorization shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items to be negotiated without advertising as required by section 303, unless such contract is to be performed outside the continental United States or unless negotiation of such contract is authorized by the provisions of paragraph (1), (2), (3), (9), (10), (11), or (13) of subsection (c) of this section.

#### ANALYSIS

##### *Section 302. Application and procurement methods*

(a) This subsection makes the provisions of title III applicable to purchases and contracts for supplies or services made by the General Services Administration either for its own use or otherwise, including centralized procurement.

By delegation the Administrator may authorize any other civilian executive agency to use the procedure set forth in title III when such agency is designated to perform a central procurement function. In addition, authority to use the procedures set forth in title III may be delegated by the Administrator to another civilian executive agency in other cases where the Administrator determines that such delegation is advantageous to the Government in terms of economy, efficiency, or national security. It is required that the Administrator's determination in such other cases set forth the circumstances upon which the determination is based. The terms "economy" and "efficiency" will be broad enough to cover cases where authority is delegated to negotiate contracts under 302 (c) (5) and 302 (c) (10) of this title. This title does not confer upon any civilian executive agency any vested right to receive such delegation. It is expected that such power of delegation will not be exercised indiscriminately but rather will be used with care and discretion. It is also expected that the Administrator will make periodic reviews to determine whether the authority so delegated has been properly used, and that he will either take such action as may be necessary to correct any misuse or will withdraw the delegation. After the Administrator has made such delegation he shall give notice thereof to the General Accounting Office.

(b) This subsection states the policy that a fair proportion of the total purchases and contracts shall be placed with small business concerns and further provides that notice of intent to negotiate shall be published in certain cases.

(c) Initially, this subsection reaffirms the basic principle that purchases and contracts shall be made by advertising. Negotiation is made permissible in certain excepted cases, however, to provide flexibility in Government procurement.

(1) This paragraph would permit automatic and immediate transition from more rigid peacetime advertising procedures to a completely flexible system if the President or the Congress declares the existence of a national emergency.

(2) This provision is an adaptation of a portion of section 3709 of the Revised Statutes as amended by section 9 (a) of the act of August 2, 1946 (60 Stat. 809; 41 U. S. C. 5). Whenever urgency requires an immediate purchase this exception would be available irrespective of whether the emergency could or should have been foreseen.

(3) This paragraph extends to the General Services Administration the power to negotiate if the aggregate amount involved does not exceed \$1,000. However, no delegation of such authority may be made to other executive agencies under this paragraph for purchases or contracts for supplies or services in excess of \$500 unless such purchasing or contracting is for centralized procurement.

(4) The provision permitting negotiation for personal or professional services is an adaptation of the exception from advertising provided by section 3709 of the Revised Statutes, as amended, hereinabove referred to.

(5) This paragraph would permit negotiation of contracts for technical assistance, expert study, and the application of specialized knowledge to be performed by any university, college, or other educational institution. This would cover matters which might not clearly qualify as experimental, developmental, or research work under paragraph (10) of this section.

(6) Under this paragraph if supplies or services are to be procured and used outside the limits of the United States and its possessions the contracts or purchases may be negotiated. In such cases it is frequently impracticable or uneconomical to advertise.

(7) Due to the technical nature, special characteristics, and differing qualities of medicines and medical supplies it is sometimes extremely difficult if not impossible to describe adequately in detailed specifications the exact characteristics of qualities needed. In such cases the need for negotiation is clear.

(8) Where supplies are purchased for authorized resale, the purchasing agency must accommodate the brand preference or the quality preference of the organization requesting the purchase. This paragraph therefore provides authority to negotiate such purchases.

(9) This paragraph provides for negotiation where it is impracticable to secure competition and places upon the agency concerned the maximum responsibility for decisions as to when it is impracticable. It is intended that this paragraph should be construed liberally.

(10) The very nature of a research and development contract does not ordinarily lend itself to formal advertising. This paragraph therefore provides that contracts for experimental, developmental, or research work or for the manufacture or furnishing of supplies for experimentation, development, re-

search, or test may be negotiated and provides also for periodic reports to the Congress of action taken under this paragraph.

(11) It is provided that in cases where the purchase or contract should not be publicly disclosed negotiation may be employed. In such cases public disclosure through advertising would clearly be adverse to the interests of the Government.

(12) This paragraph permits negotiation of contracts for technical equipment in order to assure standardization of equipment and interchangeability of parts when such standardization and interchangeability is necessary in the public interest. It is intended that this authority should be used in special situations or in particular localities and such provision has been therefore added to the language as it appears in section 2 (c) (13) of the Armed Services Procurement Act of 1947. The paragraph would protect in every way possible the principles of competition and antimonopoly consistent with the occasional need for such standardization, and section 307 (b) of this title provides that the agency head may not delegate his responsibility for making any of the determinations required under this paragraph.

(13) Permits negotiation for supplies or services when it is determined that bid prices after advertising are not reasonable either as to all or some part of the requirements or have not been independently arrived at in open competition. It is designed to cope with cases including those where all bids received are too high, although not actually identical or apparently collusive. The committee believes that this paragraph will be most useful to break collusive bidding, follow-the-leader pricing, rotated low bids, identical bids requiring drawing of lots, uniform estimating systems, refusal to classify the Government as other than a retail buyer regardless of the quantity purchased, and similar other practices. Notification of the intention to negotiate after such advertising and reasonable opportunity to negotiate must be given to each responsible bidder and also the negotiated price must be the lowest negotiated price offered by any responsible supplier. This paragraph is a modification of paragraph 2 (c) (15) of the Armed Services Procurement Act of 1947. The modification will remove a restriction which in cases such as sudden upward market fluctuations might make it impossible to secure the needed supplies.

(14) This provision would preserve the authority to negotiate contracts conferred by other permanent legislation; for example, the Strategic and Critical Materials Stock Piling Act (60 Stat. 596; 50 U. S. C. 98-98h). This paragraph also has the effect of permitting negotiation under any relevant law which may be subsequently enacted whether said law is general or special legislation.

(d) The immediate furnishing of evidence of possible violations of the anti-trust laws to the Department of Justice as required by this subsection will facilitate appropriate action where violations exist and will have a valuable moral effect on bidders. Compliance with this paragraph is not to be construed, however, as a condition precedent before exercise of the authority conferred by this title.

(e) For clarity this subsection provides that section 302 does not authorize or change the existing requirements for authorization for the erection or repair of buildings, roads, sidewalks, or similar items.

ADVERTISING REQUIREMENTS

SEC. 303. Whenever advertising is required—

(a) The advertisement for bids shall be made a sufficient time previous to the purchase or contract, and specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of types of supplies and services necessary to meet the requirements of the agency concerned.

(b) All bids shall be publicly opened at the time and place stated in the advertisement. Award shall be made with reasonable promptness by written notice to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered: *Provided*, That all bids may be rejected when the agency head determines that it is in the public interest so to do.

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ANALYSIS

*Section 303. Advertising requirements*

(a) This section would establish broad standards for advertising, reserving appropriate discretion in the agency. It is considered both unnecessary and unwise to prescribe detailed and restrictive requirements, and it is believed that such matters should be left to be dealt with by regulation. This section provides that advertising shall be so conducted as to secure such full and free competition as is consistent with the procurement of types of supplies and services needed.

(b) This subsection provides for the public opening of bids and reaffirms the principles that the award shall be made to the responsible bidder whose bid is most advantageous to the Government, price and other factors considered, and that the Government may reject all bids when such action is deemed advisable. The question as to whether a particular bidder is a responsible bidder requires sound business judgment and involves evaluation of the bidder's experience, facilities, technical organization, reputation, financial resources, and other factors and a broad discretion is accordingly reserved to the agency with respect to the making of such determination.

#### REQUIREMENTS OF NEGOTIATED CONTRACTS

SEC. 304. (a) Except as provided in subsection (b) of this section, contracts negotiated pursuant to section 302 (c) may be of any type which in the opinion of the agency head will promote the best interests of the Government. Every contract negotiated pursuant to section 302 (c) shall contain a suitable warranty, as determined by the agency head, by the contractor that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business, for the breach or violation of which warranty the Government shall have the right to annul such contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

(b) The cost-plus-a-percentage-of-cost system of contracting shall not be used, and in the case of a cost-plus-a-fixed-fee contract the fee shall not exceed 10 per centum of the estimated cost of the contract, exclusive of the fee, as determined by the agency head at the time of entering into such contract (except that a fee not in excess of 15 per centum of such estimated cost is authorized in any such contract for experimental, developmental, or research work and that a fee inclusive of the contractor's costs and not in excess of 6 per centum of the estimated cost, exclusive of fees, as determined by the agency head at the time of entering into the contract, of the project to which such fee is applicable is authorized in contracts for architectural or engineering services relating to any public works or utility project). Neither a cost nor a cost-plus-a-fixed-fee contract nor an incentive-type contract shall be used unless the agency head determines that such method of contracting is likely to be less costly than other methods or that it is impractical to secure supplies or services of the kind or quality required without the use of a cost or cost-plus-a-fixed-fee contract or an incentive-type contract. All cost and cost-plus-a-fixed-fee contracts shall provide for advance notification by the contractor to the procuring agency of any subcontract thereunder on a cost-plus-a-fixed-fee basis and of any fixed-price subcontract or purchase order which exceeds in dollar amount either \$25,000 or 5 per centum of the total estimated cost of the prime contract; and a procuring agency, through any authorized representative thereof, shall have the right to inspect the plans and to audit the books and records of any prime contractor or subcontractor engaged in the performance of a cost or cost-plus-a-fixed-fee contract.

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#### ANALYSIS

##### *Section 304. Requirements of negotiated contracts*

(a) The right to use the most suitable type of contract is a necessary and inseparable adjunct to the right to negotiate and this subsection therefore permits negotiated contracts to be of any type which in the opinion of the agency head will promote the best interests of the Government, except as provided in subsection (b). Authority to negotiate contracts in the first instance carries with it equal authority to negotiate subsequent changes in the terms of



negotiated contracts, and such amendments may also be of such type as the agency head believes will promote the best interests of the Government. This subsection also provides that every negotiated contract shall contain a suitable warranty against contingent fees.

(b) This subsection prohibits the cost-plus-a-percentage-of-cost system of contracting and prescribes maximum fees in connection with cost-plus-a-fixed-fee contracts. Neither a cost nor a cost-plus-a-fixed-fee contract nor an incentive-type contract may be used unless it is determined that such method is likely to be less costly than other methods or that it is impracticable to secure supplies or services of the kind or quality without the use of such type of contract.

#### ADVANCE PAYMENTS

SEC. 305. (a) The agency head may make advance payments under negotiated contracts heretofore or hereafter executed in any amount not exceeding the contract price upon such terms as the parties shall agree: *Provided*, That advance payments shall be made only upon adequate security and if the agency head determines that provision for such advance payments is in the public interest or in the interest of the national defense and is necessary and appropriate in order to procure required supplies or services under the contract.

(b) The terms governing advance payments may include as security provision for, and upon inclusion of such provision there shall thereby be created, a lien in favor of the Government, paramount to all other liens, upon the supplies contracted for, upon the credit balance in any special account in which such payments may be deposited and upon such of the material and other property acquired for performance of the contract as the parties shall agree.

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#### ANALYSIS

##### *Section 305. Advance payments*

(a) This section permits the agency head to make advance payments under negotiated contracts upon adequate security if the agency head determines such payments to be in the public interest or in the interest of the national defense and necessary and appropriate in order to procure the required supplies or services. This authority is essential in periods of emergency and in peacetime it is often the only way in which it can be made possible for a small-business concern to handle Government contracts. Often institutions of learning, research laboratories, inventors, and similar contractors who perform most of the experimental, research, and developmental contracts need advance payments because they do not have sufficient funds to finance or are unwilling to finance such contracts completely out of their own resources. The power to make advance payments is permissive only, and under section 307 (b) of this title may not be delegated by the agency head. The committee expects the civilian agencies to be very sparing in the making of advance payments in normal times and to use the authority, even in times of national emergency, only when it is thoroughly justified.

(b) The additional form of security by way of lien which is provided for by this subsection is a permissive feature which may be very useful, especially in the event that a joint bank account, a controlled account, or a special bank account is established in connection with an advance payment.

WAIVER OF LIQUIDATED DAMAGES

SEC. 306. Whenever any contract made on behalf of the Government by the agency head or by officers authorized by him so to do includes a provision for liquidated damages for delay, the Comptroller General on the recommendation of the agency head is authorized and empowered to remit the whole or any part of such damages as in his discretion may be just and equitable.

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ANALYSIS

*Section 306. Waiver of liquidated damages*

This section permits the Comptroller General, in his discretion, upon proper recommendation by the agency concerned, to remit sums due the Government under contract terms providing for the assessment of liquidated damages for a delay in performance. This will permit the Comptroller General to meet those situations in which the strict application of the liquidated damages provisions would be inequitable either in whole or in part and regardless of whether timely notice is given with respect to the delay.

## ADMINISTRATIVE DETERMINATIONS AND DELEGATIONS

SEC. 307. (a) The determinations and decisions provided in this title to be made by the Administrator or other agency head may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final. Except as provided in subsection (b) of this section, the agency head is authorized to delegate his powers provided by this title, including the making of such determinations and decisions, in his discretion and subject to his direction, to any other officer or officers or officials of the agency.

(b) The power of the agency head to make the determinations or decisions specified in paragraphs (11) and (12) of section 302 (c) and in section 305 (a) shall not be delegable, and the power to make the determinations or decisions specified in paragraph (10) of section 302 (c) shall be delegable only to a chief officer responsible for procurement and only with respect to contracts which will not require the expenditure of more than \$25,000. The power of the Administrator to make the delegations and determinations specified in section 302 (a) shall be delegable only to the Deputy Administrator or to the chief official of any principal organizational unit of the General Services Administration.

(c) Each determination or decision required by paragraphs (10), (11), (12), or (13) of section 302 (c), by section 304 or by section 305 (a) shall be based upon written findings made by the official making such determination, which findings shall be final and shall be available within the agency for a period of at least six years following the date of the determination. A copy of the findings shall be submitted to the General Accounting Office with the contract.

(d) In any case where any purchase or contract is negotiated pursuant to the provisions of section 302 (c), except in a case covered by paragraphs (2), (3), (4), (5), or (6) thereof, the data with respect to the negotiation shall be preserved in the files of the agency for a period of six years following final payment on such contract.

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ANALYSIS*Section 307. Administrative determinations and delegations*

(a) This subsection provides that the determinations and decisions to be made by the Administrator or other agency head may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts and that such determinations and decisions shall be final. It allows delegation by the agency head except in those cases designated in subsection (b) of this section. The determinations and decisions so made will not be made subject to invalidation or challenge by the Comptroller General or the courts. However, the broader the power or the more important the decision or determination, the higher the level at which the decision or determination will be made.

(b) This subsection prohibits the agency head from delegating the power to make the determinations or decisions specified in paragraphs (11) and (12) of section 302 (c), which concern, respectively, contracts which should not be publicly disclosed and standardization of technical equipment and in section 305 (a), concerning the making of advance payments. This subsection also restricts the power of the agency head to make the decision or determinations specified in paragraph (10) of section 302 (c) which concerns experimental, developmental, or research contracts. Furthermore, under this subsection the Administrator's power to delegate to another civilian executive agency the right to use the author-

ity provided under title III can be delegated by the Administrator only to the Deputy Administrator of the General Services Administration or to the chief official of any principal constituent agency of the General Services Administration. It is believed that such power to confer authority upon another civilian agency should be exercised only at a high level within the General Services Administration.

(c) As a further safeguard this subsection requires that determinations or decisions concerning research and development contracts, contracts which should not be publicly disclosed, standardization of technical equipment, and negotiation after advertising, the type of contract to be used and the making of advance payments shall be based upon written findings, that these findings shall be final, and shall be available within the agency for at least 6 years after making such determination. Furthermore, it provides that a copy of the findings shall be furnished to the General Accounting Office with the contract.

(d) Data with respect to negotiation is required to be preserved in the agency for 6 years following final payment on the contract except where negotiation is pursuant to public exigency, a dollar amount, for personal or professional services, for services to be rendered by an educational institution, or for supplies or services which are to be purchased and used outside the limits of the United States or its possessions.

STATUTES CONTINUED IN EFFECT

Sec. 308. No purchase or contract shall be exempt from the Act of June 30, 1936 (49 Stat. 2036, as amended; 41 U. S. C. 35 to 45), or from the Act of March 3, 1931 (46 Stat. 1494, as amended; 40 U. S. C. 276a to 276a-6), solely by reason of having been entered into pursuant to section 302 (c) hereof without advertising, and the provisions of said Acts and of the Act of June 19, 1912 (37 Stat. 137, as amended; 40 U. S. C. 324 and 325a), if otherwise applicable, shall apply to such purchases and contracts.

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ANALYSIS

*Section 308. Statutes continued in effect*

This section provides that contracts executed under this title shall not be exempt from the provisions of the Walsh-Healey Act, the Davis-Bacon Act, or the 8-hour law by reason of their having been entered into by negotiation.

#### DEFINITIONS

SEC. 309. As used in this title—

(a) The term “agency head” shall mean the head or any assistant head of any executive agency, and may at the option of the Administrator include the chief official of any principal organizational unit of the General Services Administration.

(b) The term “supplies” shall mean all property except land, and shall include, by way of description and without limitation, public works, buildings, facilities, ships, floating equipment, and vessels of every character, type and description (except the categories of naval vessels named in section 3 (d)), aircraft, parts, accessories, equipment, machine tools and alteration or installation thereof.

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#### ANALYSIS

##### *Section 309. Definitions*

(a) This subsection defines the term “agency head” as used in title III to mean the head or an assistant head of any executive agency, and provides that the term may at the option of the Administrator include the chief official of any principal organizational unit of the General Services Administration. This is deemed salutary in order to reserve the power of determination and decision at an adequately high level, and at the same time to designate the officials intended to be covered.

(b) This subsection defines supplies to include all property except land, and to include, by way of description and without limitation, public works, buildings, facilities, ships, floating equipment, vessels, aircraft, parts, accessories, equipment, machine tools, and alteration or installation thereof. These illustrations are intended only as examples and the committee has attempted to meet present and future contingencies.

STATUTES NOT APPLICABLE

SEC. 310. The following provisions of law shall not apply to the procurement of supplies or services (1) by the General Services Administration, or (2) within the scope of authority delegated by the Administrator to any other executive agency:

Revised Statutes, section 3709, as amended (41 U. S. C. 5);

Revised Statutes, section 3735 (41 U. S. C. 13);

Sections 1 and 2 of the Act of October 10, 1940 (54 Stat. 1109, as amended; 41 U. S. C. 6 and 6a).

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ANALYSIS

*Section 310. Statutes not applicable*

This section provides that the following acts shall not be applicable to the procurement of supplies or services by the General Services Administration:

Revised Statutes, section 3709, as amended, which concerns formal advertising;

Revised Statutes, section 3735, which prohibits the making of contracts for "stationery or other supplies" for more than 1 year; and

Sections 1 and 2 of the act of October 10, 1940, which set forth certain specific exemptions from Revised Statutes, section 3709, which are not in harmony with this title.

These statutes would also be suspended for procurement made by another civilian executive agency, under proper delegation of authority made by the Administrator and solely within the scope of that authority, and such suspension would be limited to the extent and within the purview of the authority thus delegated.



## TITLE IV—FOREIGN EXCESS PROPERTY

### DISPOSAL OF FOREIGN EXCESS PROPERTY

SEC. 401. Each executive agency having foreign excess property shall be responsible for the disposal thereof: *Provided*, That (a) the head of each such executive agency shall, with respect to the disposition of such property, conform to the foreign policy of the United States; (b) the Secretary of State shall have the authority to use foreign currencies and credits acquired by the United States under section 402 (b) of this Act in order to effectuate the purposes of section 32 (b) (2) of the Surplus Property Act of 1944, as amended, and the Foreign Service Buildings Act of May 7, 1926, as amended (including Public Law 547, Seventy-ninth Congress (60 Stat. 663)), and for the purpose of paying any other governmental expenses payable in local currencies, and the authority to amend, modify, and renew agreements in effect on the effective date of this Act; (c) any foreign currencies or credits acquired by the Department of State pursuant to such agreements shall be administered in accordance with procedures that may from time to time be established by the Secretary of the Treasury and, if and when reduced to United States currency, shall be covered into the Treasury as miscellaneous receipts; and (d) the Department of State shall, except to such extent as the President shall otherwise determine, continue to perform other functions with respect to agreements for the disposal of foreign excess property in effect on the effective date of this Act.

### ANALYSIS

#### TITLE IV. FOREIGN EXCESS PROPERTY

##### *Section 401. Disposal of foreign excess property*

This section generally provides that, except where commitments exist under previous agreements, all excess property located in foreign areas shall be disposed of by the owning agency. The head of the agency in question is directed to conform to the foreign policy of the United States in making such disposals. The section provides further that the Secretary of State shall continue to administer existing agreements with respect to the disposal of foreign excess property and shall have authority to amend, modify, and renew such agreements in order to carry on the foreign educational exchange program and the purposes of the Foreign Service Buildings Act and to provide local currencies under procedures established by the Secretary of the Treasury for the payment of expenses of the United States in the country in question.

## METHODS AND TERMS OF DISPOSAL

SEC. 402. Foreign excess property may be disposed of (a) by sale, exchange, lease, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the head of the executive agency concerned deems proper; but in no event shall any property be sold without a condition forbidding its importation into the United States, unless the Secretary of Agriculture (in the case of any agricultural commodity, food, or cotton or woolen goods) or the Secretary of Commerce (in the case of any other property) determines that the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of this country, or (b) for foreign currencies or credits, or substantial benefits or the discharge of claims resulting from the compromise or settlement of such claims by any executive agency in accordance with the law, whenever the head of the executive agency concerned determines that it is in the interest of the United States to do so. Such property may be disposed of without advertising when the head of the executive agency concerned finds so doing to be most practicable and to be advantageous to the Government. The head of each executive agency responsible for the disposal of foreign excess property may execute such documents for the transfer of title or other interest in property and take such other action as he deems necessary or proper to dispose of such property; and may authorize the abandonment, destruction, or donation of foreign excess property under his control which has no commercial value or the estimated cost of care and handling of which would exceed the estimated proceeds from its sale.

## ANALYSIS

*Section 402. Methods and terms of disposal*

This section authorizes disposals of foreign excess property under terms similar to those in the Surplus Property Act of 1944, as amended, under which foreign disposals are currently being made. Foreign excess property may be disposed of by sale, exchange, lease, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the head of the executive agency concerned deems proper. Such property may be disposed of for foreign currencies or credits, or substantial benefits or the discharge of claims resulting from the compromise or settlement of such claims by any executive agency in accordance with the law, whenever the head of the executive agency concerned determines that it is in the interest of the United States to do so. Disposals may be made without advertising when the head of the executive agency finds such a course to be most practicable and to be most advantageous to the Government. Sales of agricultural commodities, food, or cotton or woolen goods must include a condition forbidding importation into the United States unless the Secretary of Agriculture determines that such property is in short supply in this country. The head of the executive agency responsible for disposal may execute the documents necessary to transfer the interest of the United States in the property and may authorize abandonment, destruction, or donation of foreign excess property under his control which has no commercial value or the estimated cost of care and handling of which would exceed the estimated proceeds of sale.

PROCEEDS, FOREIGN CURRENCIES

SEC. 403. Proceeds from the sale, lease, or other disposition of foreign excess property, (a) shall, if in the form of foreign currencies or credits, be administered in accordance with procedures that may from time to time be established by the Secretary of the Treasury, and (b) shall, if in United States currency, or when any proceeds in foreign currencies or credits shall be reduced to United States currency, be covered into the Treasury as miscellaneous receipts: *Provided*, That the provisions of section 204 (b) (which by their terms apply to property disposed of under title II) shall be applicable to proceeds of foreign excess property disposed of for United States currency under this title IV: *And provided further*, That any executive agency disposing of foreign excess property under this title (1) may deposit, in a special account with the Treasurer of the United States, such amount of the proceeds of such dispositions as it deems necessary to permit appropriate refunds to purchasers when any disposition is rescinded or does not become final, or payments for breach of any warranty, and (2) may withdraw therefrom amounts so to be refunded or paid, without regard to the origin of the funds withdrawn.

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ANALYSIS

*Section 403. Proceeds; foreign currencies*

This section provides that the proceeds from sales of foreign excess property shall, if in the form of foreign currencies or credits, be administered in accordance with procedures prescribed by the Secretary of the Treasury and shall, if in United States currency or when reduced to United States currency, be covered into the Treasury as miscellaneous receipts. The provisions of section 204 (b) relating to reimbursable funds or appropriations shall apply to proceeds of foreign excess property under this title. The section further provides that any executive agency disposing of surplus property under this title may establish a special account with the Treasurer of the United States from which appropriate refunds to purchasers may be made.

MISCELLANEOUS PROVISIONS

SEC. 404. (a) The President may prescribe such policies, not inconsistent with the provisions of this title, as he shall deem necessary to effectuate the provisions of this title, which provisions shall guide each executive agency in carrying out its functions hereunder.

(b) Any authority conferred upon any executive agency or the head thereof by the provisions of this title may be delegated, and successive redelegation thereof may be authorized, by such head to any official in such agency or to the head of any other executive agency.

(c) The head of each executive agency responsible for the disposal of foreign excess property hereunder may, as may be necessary to carry out his functions under this title, (1) subject to the civil-service and classification laws, appoint and fix the compensation of personnel, and (2) without regard to the civil-service and classification laws, appoint and fix the compensation of personnel outside the continental limits of the United States.

(d) The head of each executive agency responsible for the disposal of foreign excess property under this title shall submit a report to Congress in January of each year or at such other time or times as he may deem desirable relative to its activities under this title, together with any appropriate recommendations.

(e) There shall be transferred from the Department of State to each other executive agency affected by this title such records, property, personnel, obligations, commitments, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, as the Director of the Bureau of the Budget shall determine to relate to functions of such agency under this title which have heretofore been administered by the Department of State.

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ANALYSIS

*Section 404. Miscellaneous provisions*

(a) *Presidential policies.*—The President is granted general authority to prescribe policies deemed necessary to execute the provisions of this title.

(b) *Delegation of authority.*—Any authority conferred upon any executive agency under this title may be delegated and successive redelegations authorized by the head of such agency to any official in such agency or to the head of another executive agency.

(c) *Employment of personnel.*—The head of each executive agency responsible for the disposal of excess property hereunder may, subject to the civil-service and classification laws, appoint and fix the compensation of necessary personnel and without regard to the civil-service and classification laws appoint and fix the compensation of personnel outside the continental limits of the United States as may be necessary to carry out his functions.

(d) *Reports to Congress.*—Each agency responsible for foreign disposal shall make annual reports to Congress relative to its activities under this title.

(e) *Transfer of personnel, funds, etc.*—Such records, property, personnel obligations, commitments, and unexpended balances, of appropriations, allocations, and other funds as are determined by the Director of the Bureau of the Budget to relate to the functions transferred to another executive agency under this title shall be transferred from the Department of State to that agency.

## TITLE V—GENERAL PROVISIONS

### APPLICABILITY OF EXISTING PROCEDURES

SEC. 501. All policies, procedures, and directives prescribed—

(a) by either the Director, Bureau of Federal Supply, or the Secretary of the Treasury and relating to any functions transferred to or vested in the Administrator, by the provisions of this Act;

(b) by any officer of the Government under the authority of the Surplus Property Act of 1944, as amended, or under other authority with respect to surplus property or foreign excess property;

(c) by or under authority of the Federal Works Administrator or the head of any constituent agency of the Federal Works Agency; and

(d) by the Archivist of the United States or any other officer or body whose functions are transferred by title I of this Act, in effect upon the effective date of this Act and not inconsistent herewith, shall remain in full force and effect unless and until superseded, or except as they may be amended, under the authority of this Act or under other appropriate authority.

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## ANALYSIS

### TITLE V. GENERAL PROVISIONS

#### *Section 501. Applicability of existing procedures*

This section continues in effect all existing policies, procedures, and directives until superseded or amended under authority of the act.

REPEAL AND SAVING PROVISIONS

SEC. 502. (a) There are hereby repealed—

(1) the Surplus Property Act of 1944, as amended (except sections 13 (d), 13 (g), 13 (h), 28, and 32 (b) (2)), and sections 501 and 502 of Reorganization Plan Numbered 1 of 1947: *Provided*, That, with respect to the disposal under this Act of any surplus real estate, all priorities and preferences provided for in said Act, as amended, shall continue in effect until 12 o'clock noon (eastern standard time), December 31, 1949;

(2) that portion of the Act entitled "An Act making supplemental appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1949, and for other purposes", approved June 30, 1948 (Public Law 862, Eightieth Congress), as amended, appearing under the caption "Surplus property disposal";

(3) the Act entitled "An Act to authorize the Secretary of War to dispose of material no longer needed by the Army", approved February 28, 1936 (49 Stat. 1147; 10 U. S. C. 1258);

(4) the Act entitled "An Act to authorize the Secretary of the Navy to dispose of material no longer needed by the Navy", approved May 23, 1930, as amended (46 Stat. 378; 34 U. S. C. 546c);

(5) section 5 of the Act of July 11, 1919 (41 Stat. 67; 40 U. S. C. 311);

(6) the first and second provisos contained in the fifth paragraph under the heading "Division of Supply" in section 1 of the Act of December 20, 1928 (45 Stat. 1030; 40 U. S. C. 311a);

(7) the Act entitled "An Act to authorize the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force to donate excess and surplus property for educational purposes", approved July 2, 1948 (Public Law 889, Eightieth Congress);

(8) section 203 of the Act of June 26, 1943 (57 Stat. 195, as amended; 5 U. S. C. 118d-1);

(9) the Act of April 15, 1937 (50 Stat. 64; 5 U. S. C. 118d);

(10) the second proviso contained in the paragraph of the Act of August 10, 1912 (37 Stat. 296; 5 U. S. C. 545), headed "Contingent expenses, Department of Agriculture";

(11) the second proviso contained in the twentieth paragraph of section 1 of the Act of March 2, 1917 (39 Stat. 973; 5 U. S. C. 494);

(12) the twenty-sixth paragraph under the heading "National Parks" of the Act of January 24, 1923 (42 Stat. 1215; 16 U. S. C. 9);

(13) the fifth paragraph under the heading "Experiments and demonstrations in livestock production in the cane-sugar and cotton districts of the United States" of the Act of June 30, 1914 (38 Stat. 441; 5 U. S. C. 546);

(14) the proviso contained in the second paragraph under the heading "Library, Department of Agriculture" of the Act of March 4, 1915 (38 Stat. 1107; 5 U. S. C. 548);

(15) the second proviso contained in the second paragraph under the heading "Clothing and camp and garrison equipment"

of section 1 of the Act of August 29, 1916 (39 Stat. 635; 10 U. S. C. 1271);

(16) the Act of May 11, 1939 (53 Stat. 739; 10 U. S. C. 1271a);

(17) the fifth paragraph under the heading "Office of the Chief Signal Officer" of the Act of May 12, 1917 (40 Stat. 43, as amended; 10 U. S. C. 1272);

(18) the third proviso contained in the second paragraph under the heading "Office of the Chief Signal Officer" of the Act of March 4, 1915 (38 Stat. 1064; 10 U. S. C. 1273);

(19) the fourteenth paragraph under the heading "Smithsonian Institution" of section 1 of the Act of March 3, 1915 (38 Stat. 839; 20 U. S. C. 66);

(20) the second paragraph under the heading "Government hospital for the insane" of section 1 of the Act of August 1, 1914 (38 Stat. 649; 24 U. S. C. 173);

(21) the second paragraph under the heading "Saint Elizabeths Hospital" of section 1 of the Act of June 12, 1917 (40 Stat. 153; 24 U. S. C. 174);

(22) the proviso contained in the second paragraph under the heading "Bureau of Supplies and Accounts" of the Act of August 22, 1912 (37 Stat. 346; 34 U. S. C. 531a);

(23) the second proviso of the first paragraph under the heading "Bureau of Yards and Docks" of the Act of August 29, 1916 (34 U. S. C. 532);

(24) the proviso contained in the second paragraph under the heading "Maintenance, Quartermaster's Department, Marine Corps" of the Act of March 4, 1917 (39 Stat. 1189; 34 U. S. C. 723);

(25) the twentieth paragraph under the heading "Bureau of Mines" of section 1 of the Act of July 19, 1919 (41 Stat. 200; 40 U. S. C. 118);

(26) the first sentence of section 5 of the Act of March 4, 1915 (38 Stat. 1161; 41 U. S. C. 26);

(27) the third paragraph under the heading "Interstate Commerce Commission" of section 1 of the Act of August 1, 1914 (38 Stat. 627; 49 U. S. C. 58);

(28) the Act of June 6, 1941 (55 Stat. 247; 14 U. S. C. 31b);

(29) section 4 of the Act of June 17, 1910 (36 Stat. 531; 41 U. S. C. 7);

(30) the Act of February 27, 1929 (45 Stat. 1341; 41 U. S. C. 7a, 7b, 7c, and 7d); and

(31) section 1 of the Act of May 14, 1935 (49 Stat. 234; 41 U. S. C. 7c-1).

(b) The provisions of the first, third, and fifth paragraphs of section 1 of Executive Order Numbered 6166 of June 10, 1933, are hereby superseded, insofar as they relate to any function now administered by the Bureau of Federal Supply except functions with respect to standard contract forms.

(c) The authority conferred by this Act is in addition to any authority conferred by any other law and shall not be subject to the provisions of any law inconsistent herewith, except that sections 205 (b) and 206 (c) of this Act shall not be applicable to any Government corporation or agency which is subject to the Government Corporation Control Act (59 Stat. 597; 31 U. S. C. 841).

- (d) Nothing in this Act shall impair or affect any authority of—
- (1) the President under the Philippine Property Act of 1946 (60 Stat. 418; 22 U. S. C. 1381);
  - (2) any executive agency with respect to any phase (including, but not limited to, procurement, storage, transportation, processing, and disposal) of any program conducted for purposes of resale, price support, grants to farmers, stabilization, transfer to foreign governments, or foreign aid, relief, or rehabilitation: *Provided*, That the agency carrying out such program shall, to the maximum extent practicable, consistent with the fulfillment of the purposes of the program and the effective and efficient conduct of its business, coordinate its operations with the requirements of this Act and the policies and regulations prescribed pursuant thereto;
  - (3) any executive agency named in the Armed Services Procurement Act of 1947, and the head thereof, with respect to the administration of said Act;
  - (4) the National Military Establishment with respect to property required for or located in occupied territories;
  - (5) the Secretary of Defense with respect to the administration of the National Industrial Reserve Act of 1948;
  - (6) the Secretary of Defense, the Munitions Board, and the Secretaries of the Army, Navy, and Air Force with respect to the administration of the Strategic and Critical Materials Stock Piling Act (60 Stat. 596), and provided that any imported materials which the authorized procuring agency shall certify to the Commissioner of Customs to be strategic and critical materials procured under said Act may be entered, or withdrawn from warehouse, free of duty;
  - (7) the Secretary of State under the Foreign Service Buildings Act of May 7, 1926, as amended;
  - (8) the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force with respect to the administration of section 1 (b) of the Act entitled "An Act to expedite the strengthening of the national defense", approved July 2, 1940 (54 Stat. 712);
  - (9) the Secretary of Agriculture or the Department of Agriculture under (A) the National School Lunch Act (60 Stat. 230); (B) the Farmers Home Administration Act of 1946 (60 Stat. 1062); (C) the Act of August 31, 1947, Public Law 298, Eightieth Congress, with respect to the disposal of labor supply centers, and labor homes, labor camps, or facilities; (D) section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, with respect to the exportation and domestic consumption of agricultural products; or (E) section 201 of the Agricultural Adjustment Act of 1938 (52 Stat. 36) or section 203 (j) of the Agricultural Marketing Act of 1946 (60 Stat. 1082);
  - (10) the Secretary of Agriculture, Farm Credit Administration, or any farm credit board under section 6 (b) of the Farm Credit Act of 1937 (50 Stat. 706), with respect to the acquisition or disposal of property;
  - (11) the Housing and Home Finance Agency, or any officer or constituent agency therein, with respect to the disposal of resi-



dential property, or of other property (real or personal) held as part of or acquired for or in connection with residential property, or in connection with the insurance of mortgages, loans, or savings and loan accounts under the National Housing Act;

(12) the Tennessee Valley Authority with respect to nonpersonal services, with respect to the matters referred to in section 201 (a) (4), and with respect to any property acquired or to be acquired for or in connection with any program of processing, manufacture, production, or force account construction: *Provided*, That the Tennessee Valley Authority shall to the maximum extent that it may deem practicable, consistent with the fulfillment of the purpose of its program and the effective and efficient conduct of its business, coordinate its operations with the requirements of this Act and the policies and regulations prescribed pursuant thereto;

(13) the Atomic Energy Commission;

(14) the Administrator of Civil Aeronautics or the Chief of the Weather Bureau with respect to the disposal of airport property and airway property for use as such property. For the purpose of this paragraph the terms "airport property" and "airway property" shall have the respective meanings ascribed to them in the International Aviation Facilities Act (62 Stat. 450);

(15) the Postmaster General or the Postal Establishment with respect to the means and methods of distribution and transportation of the mails, and contracts, negotiations, and proceedings before Federal and State regulatory and rate-making bodies, relating to the transportation of the mails;

(16) the United States Maritime Commission with respect to the construction, reconstruction, and reconditioning (including outfitting and equipping incident to the foregoing), the acquisition, procurement, operation, maintenance, preservation, sale, lease, or charter of any merchant vessel or of any shipyard, ship site, terminal, pier, dock, warehouse, or other installation necessary or appropriate for the carrying out of any program of such Commission authorized by law, or nonadministrative activities incidental thereto: *Provided*, That the United States Maritime Commission shall to the maximum extent that it may deem practicable, consistent with the fulfillment of the purposes of such programs and the effective and efficient conduct of such activities, coordinate its operations with the requirements of this Act, and the policies and regulations prescribed pursuant thereto;

(17) Central Intelligence Agency;

(18) except as provided in subsections (a) and (b) hereof, any other law relating to the procurement, utilization, or disposal of property: *Provided*, That, subject to, and within the scope of authority conferred on the Administrator by other provisions of this Act, he is authorized to prescribe regulations to govern any procurement, utilization, or disposal of property under any such law, whenever but only to the extent he deems such action necessary to effectuate the provisions of title II; nor

(19) for such period of time as the President may specify, any other authority of any executive agency which the President determines within one year after the effective date of this Act should, in the public interest, stand unimpaired by this Act.

(e) Section 3709, Revised Statutes, as amended (41 U. S. C. 5), is amended by striking out "\$100" wherever it appears therein and inserting in lieu thereof "\$500".

#### ANALYSIS

##### *Section 502. Repeal and saving provisions*

(a) *Repeal of Surplus Property Act, certain exceptions.*—This subsection repeals all the Surplus Property Act of 1944 except (i) sections 13 (d), 13 (g), and 13 (h), relating to power transmission lines, transfers for the airport program and for parks, recreation, and historic monuments, and section 32 (b) (2), relating to the foreign scholarship program, all of which are retained as permanent legislation; and (ii) section 28 suspending a statute of limitations. The priorities and preferences provided for in that act are continued in effect with respect to the disposal of surplus real estate until December 31, 1949. By opinion dated August 29, 1949, the Counsel to the General Services Administration Committee for Disposal of Surplus Property for Educational and Health Purposes held that the effect of the proviso to Sec. 502 (a) was to vest in the Administrator a discretionary authority to make transfers of property in accordance with Sec. 13 (g) of the Surplus Property Act of 1944. The provisions of the Supplemental Independent Offices Appropriation Act, 1949 (Public Law 862, 80th Cong.), as amended, abolishing the War Assets Administration as of June 30, 1949, and assigning its property-disposal functions to several different agencies, are likewise repealed, as are two statutes authorizing the armed services to donate obsolete personal property for educational purposes. The latter statutes were superseded by Public Law 889, Eightieth Congress, which is likewise repealed, since it will be superseded by the donation provisions in section 203 (j). This subsection also repeals two statutes relating to the transfer of excess property to other agencies and some 20 statutes relating to use of trade-in allowances which will be superseded by section 201 (e). Finally, this subsection repeals section 4 of the act of June 17, 1910 (36 Stat. 531; 41 U. S. C. 7), concerning the General Supply Committee; the act of February 27, 1929 (45 Stat. 1341; 41 U. S. C. 7a, 7b, 7c, and 7d), concerning central procurement by the Secretary of the Treasury and authorizing the establishment and use of the general supply fund; and section 1 of the act of May 14, 1935 (49 Stat. 234; 41 U. S. C. 7c-1), covering the use of the general supply fund for the operation of the Government fuel yards. These provisions will be superseded upon the enactment of the general scheme of Government procurement contemplated in this bill which will more effectively accomplish the same objectives.

(b) *Repeal of Executive Order 6166.*—This subsection supersedes Executive Order 6166 so far as it relates to the Bureau of Federal Supply, except for the functions reserved with respect to standardizing contract forms, such as the lease and the construction contract form.

(c) *Declaration of additional authority.*—By this subsection the authority conferred by the act is declared supplemental and not subject to other legislation.

(d) *Special exemptions from the act.*—This subsection exempts from operations under the act a number of activities requiring special treatment. Chief among these are programs for price support, stabilization, grants to farmers, and foreign aid; procurement procedures under the Armed Services Procurement Act of 1947 (this statute is concerned only with procedures and it is not intended by its inclusion in this subsection to grant any exemption from the substantive provisions of the bill); the stock piling of critical materials; the national school-lunch program; the Housing and Home Finance Agency with respect to the disposal of residential property; the Atomic Energy Commission; and the Central Intelligence Agency.

It is not intended by these exemptions that those administering the agencies or programs listed shall be free from all obligation to comply with the provisions of the act or from all jurisdiction of the Administrator. On the contrary, it is expected that they will as far as practicable procure, utilize, and dispose of property in accordance with the provisions of the act and the regulations issued thereunder, particularly so far as common-use items and administrative supplies are concerned. Likewise, it is intended that the Administrator shall have full authority, with respect to the agencies or programs mentioned, to make surveys

of, and obtain reports on, property and property-management practices, to co-operate in the establishment of inventory levels, and to report excessive stocking, in accordance with the provisions of section 206 (a) (1) and (2).

In other words, to the extent that compliance with the act and submission to the jurisdiction of the Administrator will not so "impair or affect the authority" of the several agencies to which the subsection applies as to interfere with the operation of their programs, the act will govern. Any disputes that arise can be settled by the President under the authority to prescribe policies and directives vested in him by section 205 (a).

(e) *Limitation on open-market purchases.*—This subsection amends section 3709 of the Revised Statutes as amended by raising from \$100 to \$500 the limit on the amount that can be expended in an open-market purchase without advertising or bidding.

AUTHORIZATIONS FOR APPROPRIATIONS AND TRANSFER AUTHORITY

SEC. 503. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) When authorized by the Director of the Bureau of the Budget, any Federal agency may use, for the disposition of property under this Act, and for its care and handling pending such disposition, any funds heretofore or hereafter appropriated, allocated, or available to it for purposes similar to those provided for in sections 201, 202, 203, and 205 of this Act.

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ANALYSIS

*Section 503. Authorization for appropriations and transfer authority*

(a) *Authorization for appropriations.*—This subsection authorizes appropriations generally without specification as to amount.

(b) *Transfer authority.*—Under this subsection an executive agency may use for care and handling of property, funds heretofore appropriated to it for purposes contemplated by sections 201, 202, 203, and 205 of the act.

SEPARABILITY

SEC. 504. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

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ANALYSIS

*Section 504. Separability*

Each provision of the act is declared separable so far as validity is concerned.

EFFECTIVE DATE

SEC. 505. This Act shall become effective on July 1, 1949, except that the provisions of section 502 (a) (2) (repealing prior law relating to the disposition of the affairs of the War Assets Administration) shall become effective on June 30, 1949.

Approved June 30, 1949.

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ANALYSIS

*Section 505. Effective date*

The effective date of the act is established as July 1, 1949, except that one clause relating to the War Assets Administration is made effective June 30, 1949.

APPENDIX A

STATEMENT OF AGREEMENT BETWEEN THE MUNITIONS BOARD, NATIONAL DEFENSE ESTABLISHMENT, AND THE BUREAU OF FEDERAL SUPPLY, DEPARTMENT OF THE TREASURY, ON PROCEDURES FOR THE DEVELOPMENT OF A UNIFORM FEDERAL CATALOG SYSTEM

The Munitions Board Cataloging Agency has embarked upon a comprehensive 3-year program to provide a uniform catalog system for all items of armed services supply. This program was initiated in recognition of the urgent military need for a common language for supply activities. The Bureau of Federal Supply has been active in the planning for a Federal catalog system in compliance with Presidential directives and its basic responsibility for the development and maintenance of the Federal Standard Stock Catalog. This planning was participated in by the Military Establishment and several of the larger civil establishments. There is now pending before the Congress a bill to reorganize and simplify the procurement, utilization, and disposal of Government property, and for other purposes, which provides, among other things, for the transfer of the Bureau of Federal Supply to the Federal Works Agency and authorizes the Federal Works Administrator "As he may deem necessary for the effectuation of his functions under this title, and after adequate advance notice to the agencies affected, and with due regard to the requirements of the National Military Establishment as determined by the Secretary of Defense \* \* \* to establish and maintain such uniform Federal supply catalog system to identify and classify personal property under the control of Federal agencies as may be appropriate. \* \* \*." Also "each executive agency shall utilize such uniform Federal supply catalog system and standard purchase specifications as far as practicable, taking into consideration efficiency, economy, and other interests of the Government."

Pending action of the Congress on the above bill, it is recognized that the interests of the Federal Government can best be served through continuing close cooperation and working contacts between the cataloging activities of the civil and military establishments. To this end the following agreements have been reached between the Munitions Board and the Bureau of Federal Supply:

- (1) That the present plans and procedures of the Munitions Board Cataloging Agency are satisfactory for initiating Federal catalog operations. It is understood that the agency is further developing the elements of cataloging in accordance with the basic principles developed under the sponsorship of the United States Standard Commodity Catalog Board;
- (2) That certain revisions and expansions in plans and procedures must be made as work progresses to provide for the requirements of civilian agencies;
- (3) That the question of classification will require close coordination with the civilian agencies and the Munitions Board Cataloging Agency in order to develop a commodity supply classification system which will be practical and workable for all organizations;
- (4) That any civilian agency having major supply problems should be represented on the Technical Group of the Munitions Board Cataloging Agency. The Bureau of Federal Supply will, with the concurrence of the Bureau of the Budget, develop recommendations to the Cataloging Agency as to the agencies which should be represented;
- (5) That the Bureau of Federal Supply shall have one member and one alternate on the Executive Group of the Munitions Board Cataloging Agency, for representation of civilian agencies.
- (6) That after completion of the current "3-year program" of the Munitions Board Cataloging Agency, the respective future responsibilities of the Agency and the Bureau of Federal Supply would, in the absence of legislative direction, be determined by agreement between the Secretary of Defense and the Secretary of the Treasury;
- (7) That the Bureau of Federal Supply will be responsible for such coordination as will assure that cataloging developments initiated by the Munitions Board Cataloging Agency are made available to interested civil establishments.

(Signed) CLIFTON E. MACK,  
Bureau of Federal Supply, Treasury Department.

JUNE 3, 1948.

(Signed) Maj. Gen. PATRICK W. TIMSERLAKE,  
Munitions Board.

MAY 14, 1948.

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